AGREEMENT AND PLAN OF MERGER

Dated as of June 9, 2012

by and among

FREEDOM COMMUNICATIONS HOLDINGS, INC.,

2100 TRUST, LLC

and

2100 FREEDOM, INC.

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AGREEMENT AND PLAN OF MERGER

This AGREEMENT AND PLAN OF MERGER, dated as of June 9, 2012 (this "**Agreement**"), is entered into by and among Freedom Communications Holdings, Inc., a Delaware corporation (the "**Company**"), 2100 Trust, LLC a Delaware limited liability company ("**Parent**"), and 2100 Freedom, Inc., a Delaware corporation and a wholly owned Subsidiary of Parent ("**Merger Sub**").

WHEREAS, the parties intend that Merger Sub be merged with and into the Company, with the Company surviving the merger on the terms and subject to the conditions set forth in this Agreement (the "**Merger**");

WHEREAS, as a condition to the Merger, the Company has agreed to sell, liquidate or otherwise transfer substantially all of its businesses and assets that are not part of the newspapers, magazines, websites and other publications owned and operated by the Company and its Subsidiaries (as defined herein) as of the date hereof and listed on *Exhibit A* attached hereto (the "**Retained Businesses**");

WHEREAS, the Company's board of directors has (a) determined that it is in the best interests of the Company and its stockholders, and declared it advisable, to enter into this Agreement, (b) approved the execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby, including the Merger, and (c) resolved to recommend adoption of this Agreement and approval of the transactions contemplated hereby, including the Merger, by the stockholders of the Company;

WHEREAS, (a) the board of directors or similar governing body of Parent and the board of directors of Merger Sub have approved the execution, delivery and performance by Parent and Merger Sub, respectively, of this Agreement and the consummation of the transactions contemplated hereby, including the Merger, and (b) the board of directors of Merger Sub has (i) determined that it is in the best interests of Merger Sub and its sole stockholder, and declared it advisable, to enter into this Agreement, and (ii) resolved to recommend that the sole stockholder of Merger Sub adopt this Agreement and approve the transactions contemplated hereby, including the Merger;

WHEREAS, Parent, as the sole stockholder of Merger Sub, has adopted this Agreement and approved the transactions contemplated hereby, including the Merger; and

WHEREAS, the Company, Parent and Merger Sub intend that this Agreement will be adopted, and the transactions contemplated hereby will be approved, by the written consent of stockholders holding at least a majority of the outstanding shares of Company Common Stock (as defined herein), voting together as a single class, entitled to vote on the adoption of this Agreement and approval of the transaction contemplated hereby, in accordance with Section 228 of the DGCL, the Certificate of Incorporation (as defined herein) and the Bylaws (as defined herein), as soon as reasonably practicable following the execution and delivery of this Agreement by the Company, Parent and Merger Sub.

NOW, THEREFORE, in consideration of the representations, warranties, covenants and agreements contained in this Agreement, and intending to be legally bound hereby, Parent, Merger Sub and the Company hereby agree as follows:

ARTICLE 1

DEFINITIONS; INTERPRETATIONS

Section 1.01 Certain Definitions. The following terms shall have the following meanings:

"**Action**" shall mean any claim, suit, arbitration, inquiry, investigation or proceeding by or before any Governmental Authority or arbitral tribunal.

"**Affiliate**" shall mean, as to any Person, any other Person that, directly or indirectly, controls, or is controlled by, or is under common control with, such Person. For this purpose, "*control*" (including, with its correlative meanings, "*controlled by*" and "*under common control with*") shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

"**Base Merger Consideration**" shall mean the sum of the amounts set forth in clauses (i), (iii), (iv) and (v) of the definition of "Merger Consideration."

"**Basic Fractional Interest**" shall mean the quotient of (a) one *divided by* (b) the Outstanding Equity.

"**Business Day**" shall mean any day except a Saturday, a Sunday or other day on which the banks in the State of New York are authorized or required by Law to be closed.

"**Business Employee**" shall mean each employee of the Company or any of its Subsidiaries.

"**Cash and Cash Equivalents**" shall mean all cash and cash equivalents in deposit and securities accounts of the Company and its Subsidiaries on a consolidated basis immediately prior to the Closing, which (i) shall be calculated after giving effect to the Aggregate RSU Payment, (ii) shall exclude certificates of deposit in place to support certain workers' compensation programs, and (iii) shall be deemed to include any amounts actually paid by the Company to purchase the Tail Policies in excess of $100,000.

"**Closing Debt**" shall mean the Indebtedness of the Company and its Subsidiaries on a consolidated basis outstanding immediately prior to the Closing.

"**Closing Net Pension Liability**" shall mean the excess of the Pension Liability over the Pension Assets immediately prior to the Closing.

"**Closing Pension Adjustment Amount**" shall mean (i) if the Closing Net Pension Liability is greater than or equal to the Threshold Net Pension Liability and less than or

equal to the Target Net Pension Liability, then zero, (ii) if the Closing Net Pension Liability is greater than the Target Net Pension Liability, then the difference between the Target Net Pension Liability and the Closing Net Pension Liability, which shall be a negative number, and (iii) if the Closing Net Pension Liability is less than the Threshold Net Pension Liability, then the difference between the Threshold Net Pension Liability and the Closing Net Pension Liability, which shall be a positive number (such positive difference, the "**Positive Pension Adjustment Amount**"); *provided*, *however*, that, in the event the Company has made any Excess Required Contributions, the amount in clause (iii) shall be reduced by the product of (x) the lesser of the aggregate amount of such Excess Required Contributions and the Positive Pension Adjustment Amount, *multiplied by* (y) the Effective Tax Rate.

"**Company Intellectual Property**" shall mean all Intellectual Property owned, used or held for use by the Company or its Subsidiaries in the conduct of the Retained Businesses.

"**Company Material Adverse Effect**" shall mean any change, event, occurrence or effect that (a) is materially adverse to the business, assets, Liabilities, results of operations or condition (financial or otherwise) of the Company and its Subsidiaries, taken as a whole; *provided*, *however*, that none of the following shall constitute, or be considered in determining whether there has occurred, and no change, event, occurrence or effect resulting from or arising out of any of the following shall constitute, a Company Material Adverse Effect: (i) changes, events or occurrences generally affecting (A) the industries in which the Company and its Subsidiaries operate, or (B) the economy or the credit, debt, financial or capital markets, in each case, in the United States, including changes in interest or exchange rates, (ii) changes after the date hereof in Law or the interpretation or enforcement thereof or in GAAP or in accounting standards, or changes after the date hereof in general legal, regulatory or political conditions, (iii) the negotiation, execution, announcement or performance of this Agreement, (iv) acts of war (whether or not declared), sabotage or terrorism, or any outbreak or escalation or worsening of any such acts of war, sabotage or terrorism, (v) earthquakes, hurricanes, tornados or other natural disasters or calamities, (vi) any failure to meet any internal or public projections, forecasts or estimates of revenues or earnings or the issuance of revised projections that are not as optimistic as those in existence on the date hereof, (vii) changes or developments in national, regional, state or local telecommunications or internet transmission systems or (viii) any action taken by the Company or its Subsidiaries as expressly contemplated by this Agreement, including but not limited to, the making by the Company of any Excess Required Contributions, or with Parent's written consent or at Parent's written request; *provided*, *further*, *however*, that (X) clauses (i), (ii), (iv), (v) and (vii) shall not include any change, event, occurrence or effect to the extent such change, event, occurrence or effect has a materially disproportionate effect on the Company and its Subsidiaries, taken as a whole, relative to other participants in the industries in which the Company and its Subsidiaries operate and (Y) that for purposes of clause (vi) any change, event, occurrence or effect underlying such decline, change or failure not otherwise excluded in the other exceptions in clauses (i) through (v), (vii) and (viii) of this definition shall be taken into account in determining whether a Company Material Adverse Effect has occurred, or (b) would prevent or materially delay the consummation of the Merger by the Company or otherwise prevent or materially delay the Company from performing its obligations under this Agreement. With respect to references to "Company Material Adverse Effect" in the representations and warranties set forth in Sections 3.03 and 3.04, the exceptions set forth in clause (iii) shall not

apply. Neither the consummation of any of the Disposition Transactions nor any change, event, occurrence or effect relating solely to the business, assets, Liabilities, results of operations or condition (financial or otherwise) of the Other Freedom Businesses shall be taken into account in determining whether there has occurred a Company Material Adverse Effect.

"**Company Parties**" shall mean, collectively, the Company and its Subsidiaries and any of their respective former, current or future directors, officers, employees, agents, general or limited partners, managers, members, stockholders, Affiliates or assignees or any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder, Affiliate or assignee of any of the foregoing.

"**Company Stock Plan**" shall mean the Freedom Communications Holdings, Inc. 2010 Equity Incentive Plan, as amended.

"**Disposition Agreements**" shall mean the asset purchase agreements listed on *Schedule 1.01* related to the disposition of the Other Freedom Businesses.

"**Disposition Transactions**" shall mean, collectively, the transactions contemplated by each of the Disposition Agreements.

"**Effective Tax Rate**" shall mean 40%.

"**Environmental Law**" means, as amended and as in effect as of the Closing Date, all applicable federal, state and local statutes, regulations, ordinances, and similar legally binding provisions having the force or effect of law, all applicable and binding judicial and administrative orders, and all common law concerning pollution, or protection of the environment, including without limitation all those relating to the presence, use, production, generation, handling, transportation, treatment, storage, disposal, distribution, labeling, testing, processing, discharge, release, threatened release, control, or cleanup of Hazardous Substances.

"**Escrow Agent**" shall mean JPMorgan Chase Bank, National Association.

"**Escrow Agreement**" shall mean an Escrow Agreement, dated as of the Closing Date, to be entered into by and among Parent, the Stockholder Representative and the Escrow Agent, in the form of *Exhibit B* attached hereto.

"**Excess Required Contributions**" shall mean cash contributions by the Company to the Pension Plans in excess of the amounts specified in Section 5.19, if any, required by or agreed to with the PBGC in connection with the transactions contemplated hereby.

"**Freedom Communications Severance Plan**" shall mean the Freedom Communications, Inc. Associate Severance Program, updated as of January 2009, including Addendum A and Addendum B thereto.

"**GAAP**" shall mean generally accepted accounting principles in the United States, consistently applied.

"**Governmental Authority**" shall mean any government or governmental or regulatory body thereof, or political subdivision thereof, whether federal, provincial, state, municipal, local or foreign, or any agency, commission, instrumentality or authority thereof exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, or any court or arbitrator (public or private) exercising judicial, quasi-judicial, administrative or similar functions.

"**Hazardous Substances**" shall mean any materials, substances, or wastes regulated as toxic or hazardous to human health or the environment.

"**HSR Act**" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

"**Indebtedness**" shall mean (a) any indebtedness for borrowed money (including the issuance of any debt security) to any Person, contingent or otherwise, (b) all obligations evidenced by mortgages, notes, bonds, debentures or similar instruments, (c) all obligations under leases that would be required to be capitalized in accordance with GAAP as in effect on the date of this Agreement, (d) all obligations issued or assumed as the deferred purchase price of property or services (other than ordinary course trade payables to the extent paid in accordance with their terms), (e) the Indebtedness of any third Person secured by a Lien on any of the properties or assets of the Company or its Subsidiaries and (f) any guarantee of any such Indebtedness or debt securities of any Person, including interest and penalties thereon.

"**Indemnification Escrow Amount**" shall mean $2,000,000, *plus* any interest or other earnings accrued thereon.

"**Indemnified Taxes**" means (a) Taxes imposed on or payable by the Company or any Subsidiary for any taxable period beginning before and ending on or before the Closing Date; and (b) Pre-Closing Straddle Period Taxes; *provided*, *however*, that Indemnified Taxes shall not include any Taxes included in the Tax Liability Retention Amount.

"**Independent Arbiter**" shall mean PricewaterhouseCoopers LLP.

"**Intellectual Property**" shall mean all intellectual property rights, including: (i) all patents and patent applications, including all continuations, divisionals, continuations-in-part and provisionals and patents issuing on any of the foregoing, and all reissues, reexaminations, substitutions, renewals and extensions of any of the foregoing, (ii) all trademarks, service marks, trade dress, trade names, logos, and other source or business identifiers, and all registrations, applications for registration, renewals and extensions for any of the foregoing, and all of the goodwill associated therewith, (iii) all copyrights and copyrightable subject matter, and all registrations, applications for registration, renewals, extensions and reversions of any of the foregoing, (iv) all Internet domain names and (v) all proprietary know-how and trade secrets.

"**Knowledge**" shall mean (a) in the case of the Company, the actual knowledge of those individuals set forth on *Schedule 1.01* of the Company Disclosure Schedule, and (b) in the case of Parent and Merger Sub, the actual knowledge of those individuals set forth on *Schedule 1.01* of the Parent Disclosure Schedule.

"**Leased Real Property Option**" shall mean, collectively, rights of first offer, rights of first refusal or rights of renewal contained in any Lease, including any such rights pertaining to purchase, expansion, renewal, extension or relocation.

"**Liabilities**" shall mean liabilities, demands, expenses, commitments or obligations of every kind and description whether accrued or fixed, absolute or contingent, matured or unmatured or determined or determinable, including those arising under any Law, Action or Order.

"**Liens**" shall mean any pledges, claims, liens, charges, encumbrances, mortgages, security interests, options to purchase or lease or otherwise acquire any interest or restrictions of any kind or nature whatsoever, including any easement, reversion interest, right of way or other encumbrance to title, limitations on voting rights or any options, right of first refusal or right of first offer.

"**Losses**" shall mean all losses, damages, costs, expenses and Liabilities of any kind, including interest, fines, penalties, fees, disbursements and amounts paid in settlement (including any reasonable and documented legal expenses).

"**Merger Consideration**" shall mean the *sum* of (i) $50,000,000, without interest thereon, *plus or minus, as applicable*, (ii) the amount of Net Cash and Cash Equivalents set forth in the Statement of Estimated Net Cash and Cash Equivalents, *plus or minus, as applicable*, (iii) the Closing Working Capital Adjustment Amount set forth in the Statement of Estimated Closing Working Capital, *plus or minus, as applicable*, (iv) the Closing Pension Adjustment Amount, *minus* (v) Transaction Costs.

"**Net Cash and Cash Equivalents**" shall mean Cash and Cash Equivalents *less* the Tax Liability Retention Amount *less* the amount of Closing Debt.

"**Net Merger Consideration**" shall mean the Merger Consideration *minus* the Escrow Amount.

"**Non-Retained Business Employees**" shall mean those Business Employees that are set forth on the "Non-Retained Business Employee List" previously provided by the Company to Parent and agreed to by Parent.

"**Order**" shall mean any order, injunction, judgment, decree, ruling, penalty, verdict, writ, assessment or arbitration of a Governmental Authority.

"**Other Freedom Businesses**" shall mean all of the businesses owned and operated by the Company and its Subsidiaries as of the Balance Sheet Date other than the Retained Businesses.

"**Outstanding Equity**" shall mean the *sum* of (a) the number of shares of Company Common Stock (other than any shares of Company Common Stock or Warrants to be cancelled pursuant to Section 2.07(b) hereof), *plus* (b) the aggregate number of shares of Company Common Stock issuable upon the exercise in full of all Warrants, in each case outstanding immediately prior to the Effective Time.

"**Parent Parties**" shall mean collectively, Parent, Merger Sub, or any of their respective former, current or future directors, officers, employees, agents, attorneys, direct or indirect equityholders, controlling persons, general or limited partners, managers, members, stockholders, Affiliates or assignees or any former, current or future director, officer, employee, agent, attorney, direct or indirect equityholder, controlling person, general or limited partner, manager, member, stockholder, Affiliate or assignee of any of the foregoing.

"**PBGC**" shall mean the Pension Benefit Guaranty Corporation.

"**Pension Assets**" shall mean the fair market value of the assets in the Pension Plans, determined in accordance with the same actuarial assumptions and methodologies used for purposes of determining minimum required contributions to the Pension Plans under Sections 302 and 303 of ERISA and Sections 412 and 430 of the Code.

"**Pension Liability**" shall mean the aggregate present value of all benefit liabilities under the Pension Plans, determined in accordance with the same actuarial assumptions and methodologies used for purposes of determining minimum required contributions to the Pension Plans under Sections 302 and 303 of ERISA and Sections 412 and 430 of the Code, except that (i) the Closing Date shall be deemed to be the beginning of the plan year for each Pension Plan and the valuation date for the Pension Plans and (ii) the interest rate to be used to value liabilities shall be the corporate bond yield curve (within the meaning of Section 303(h)(2)(D)(i) of ERISA) for the 24-calendar month period ending with the calendar month prior to the Closing Date.

"**Pension Plans**" shall mean, collectively, The Retirement Plan of Freedom Communications, Inc. and the FLANCN Retirement Plan.

"**Permitted Encumbrances**" shall mean (a) any transfer restrictions of general applicability as may be provided under the securities laws of the United States and the various States of the United States, (b) statutory Liens for current Taxes, assessments or other charges by Governmental Authorities not yet due and payable or the amount or validity of which is being contested in good faith and by appropriate proceedings, (c) mechanics', carriers', workers', warehouseman's, landlord's, repairmen's and similar liens granted or which arise in the ordinary course of business securing obligations as to which there is no default on the part of the Company or any of its Subsidiaries or the validity or amount of which is being contested in good faith by appropriate proceedings by the Company or one of its Subsidiaries, (d) Liens arising under worker's compensation, unemployment insurance, social security, retirement and similar legislation, (e) any restrictions on land use promulgated by Law (including zoning, building and fire-life safety Laws and related regulations), (f) access agreements, development agreements, use agreements, reciprocal easement agreements, easements, licenses, covenants, conditions and other similar agreements, restrictions and/or encumbrances affecting title to or the use and/or operation of real property that would be (A) disclosed by an accurate, current title report for the subject real property, or (B) reflected in an accurate survey for the subject real property, (g) any encumbrances or Liens that are approved in writing by Parent, (h) such other Liens, encumbrances or imperfections that are not material in amount or do not materially detract from the value of or materially impair the existing use of the property affected by such Lien,

encumbrance or imperfection, and (i) any Liens set forth on *Schedule 1.01* of the Company Disclosure Schedule.

"**Person**" shall mean any individual, corporation, limited liability company, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or other entity.

"**Pre-Closing Environmental Liabilities**" shall mean any Liabilities under Environmental Laws to the extent arising from the Company's or any of its Subsidiaries' operations or activities prior to the Closing Date.

"**Pre-Closing Straddle Period Taxes**" means Taxes that are payable with respect to a Straddle Period, the portion of any such Tax that is allocable to the portion of the taxable period ending on the Closing Date. Pre-Closing Straddle Period Taxes allocable to the portion of the taxable period ending on the Closing Date shall be (A) in the case of Taxes that are either (x) based upon or related to income or receipts or (y) imposed in connection with any sale or other transfer or assignment of property (real or personal, tangible or intangible), deemed equal to the amount which would be payable (after giving effect to amounts which may be deducted from or offset against such Taxes) if the taxable period ended on the Closing Date; and (B) in the case of Taxes imposed on a periodic basis with respect to the assets of the Company, or any Subsidiary, or otherwise measured by the level of any item, deemed to be the amount of such Taxes for the entire Straddle Period (after giving effect to amounts which may be deducted from or offset against such Taxes) (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding period), multiplied by a fraction the numerator of which is the number of days in the period ending on the Closing Date and the denominator of which is the number of days in the entire Straddle Period.

"**Remaining Disposition Transactions**" shall mean the asset sale transactions contemplated by the Disposition Agreements that have not been consummated as of the date hereof.

"**Representatives**" shall mean, with respect to any party, the officers, directors, employees, consultants, agents, advisors and other representatives of such party and its Subsidiaries.

"**Restricted Stock Unit**" shall mean any right to receive shares of Class A Common Stock from the Company pursuant to an award granted under the Company Stock Plan.

"**Retained Business Employees**" shall mean all Business Employees employed by a Retained Business other than the Non-Retained Business Employees.

"**Severance Escrow Amount**" shall mean an amount equal to all Severance Expenses related to the Non-Retained Business Employees that have not been fully paid and discharged by the Company as of the Closing.

"**Severance Expenses**" shall mean (a) all lump sum payments and COBRA reimbursements under the Freedom Communications Severance Plan or any separate severance agreement with a Business Employee to which the Company or any of its Subsidiaries is a party,

as applicable, and (b) any residual payments to a Business Employee that may be required under the WARN Act or any similar state or local "mass layoff" or "plant closing" Law for periods of time following the last day of employment of such Business Employee.

"**Stockholder Representative Expense Amount**" shall mean $250,000, *plus* any interest or other earnings accrued thereon.

"**Straddle Period**" means any taxable period beginning on or before the Closing Date and ending after the Closing Date.

"**Subsidiary**" when used with respect to any party, shall mean any corporation, limited liability company, partnership, association, trust or other entity of which securities or other ownership interests representing fifty percent (50%) or more of the equity or fifty percent (50%) or more of the ordinary voting power (or, in the case of a partnership, fifty percent (50%) or more of the general partnership interests) are, as of such date, owned by such party or one or more Subsidiaries of such party or by such party and one or more Subsidiaries of such party; *provided*, *however*, that for the purposes of Section 5.04(a), the references to "fifty percent (50%) or more" shall be deemed to be references to "more than fifty percent (50%)."

"**Target Net Pension Liability**" shall mean $110,000,000.

"**Target Working Capital**" shall mean $2,000,000.

"**Tax Liability Retention Amount**" shall mean $117,000,000.

"**Threshold Net Pension Liability**" shall mean $100,000,000.

"**Transaction Costs**" shall mean all out-of-pocket costs and expenses incurred by the Company in connection with the negotiation and execution of this Agreement and the other Transaction Documents and consummation of the transactions contemplated hereby and thereby that remain unpaid as of the Closing and that are not included in the calculation of Working Capital as of the Closing Date set forth in the Statement of Estimated Closing Working Capital.

"**Transaction Documents**" shall mean this Agreement, the Escrow Agreement and each other document, instrument or agreement executed in connection herewith or therewith.

"**Warrant Fractional Interest**" shall mean, with respect to each Warrant, the quotient of (a) the total number of shares of Company Common Stock subject to such Warrant, *divided by* (b) the Outstanding Equity.

"**Working Capital**" shall mean, for the Company on a consolidated basis as of the close of business on the Closing Date, "Current Assets" *minus* "Current Liabilities" (with Current Assets and Current Liabilities calculated using only those line items set forth on the example statement of Working Capital attached as *Exhibit C* hereto), and prepared on a consolidated basis for the Company in accordance with GAAP, consistent with past practice and using the same accounting principles, practices, procedures, policies and methods (with consistent classifications, judgment, inclusions, exclusions and valuation and estimation

methodologies) used and applied in the preparation of the balance sheet included in the Company Financial Statements, with such exceptions set forth on *Exhibit C* hereto).

Section 1.02 Cross Reference Table. The following terms defined elsewhere in this Agreement in the sections set forth below shall have the respective meaning therein defined:

Freedom Communications Severance Plan 1.01
2010 Audited Company Financial Statements..... 3.05(a)
2011 Audited Company Financial Statements..... 3.05(a)
Acceptable Confidentiality Agreement..... 5.04(b)
Action..... 1.01
Affiliate..... 1.01
Aggregate RSU Payment..... 2.10(a)
Agreement..... Preamble
Alternative Financing..... 5.15(b)
Alternative Financing Agreements..... 5.15(b)
Alternative Financing Commitment..... 5.15(b)
Antitrust Laws..... 5.05(a)
Balance Sheet Date..... 3.05(b)
Bankruptcy and Equity Exception..... 3.03(a)
Basic Fractional Interest..... 1.01
Book Entry Shares..... 2.07(c)
Business Day..... 1.01
Business Employee..... 1.01
Bylaws..... 2.05
Cash and Cash Equivalents..... 1.01
Certificate..... 2.07(c)
Certificate of Incorporation..... 2.05
Certificate of Merger..... 2.03
Claim..... 5.09(b)
Class A Common Stock..... 2.07
Class B Common Stock..... 2.07
Closing..... 2.02
Closing Date..... 2.02
Closing Debt..... 1.01
Closing Net Pension Liability..... 1.01
Closing Working Capital Adjustment Amount..... 2.12(a)
Code..... 2.08(h)
Company..... Preamble
Company Acquisition Agreement..... 5.04(d)
Company Adverse Recommendation Change..... 5.04(d)
Company Board Recommendation..... 3.03(b)
Company Common Stock..... 2.07
Company Disclosure Schedule..... Article 3
Company Financial Statements..... 3.05(a), 3.05(a)
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Section 1.03 Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

(a) *Calculation of Time Period.* When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(b) *Dollars.* Any reference in this Agreement to $ or Dollars shall mean U.S. dollars.

(c) *Gender and Number.* Any reference in this Agreement to gender shall include both genders, and words imparting the singular number only shall include the plural and vice versa.

(d) *Headings.* The provisions of a Table of Contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement. When a reference is made in this Agreement to an Article, Section, Exhibit or Schedule, such reference shall be to an Article or Section of, or an Exhibit or Schedule to, this Agreement unless otherwise indicated.

(e) *Herein.* The words such as "*herein*," "*hereinafter*," "*hereof*," and "*hereunder*" refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context requires otherwise.

(f) *Including.* The word "*including*," or any variation thereof, means "including, without limitation" and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

(g) *Negotiation and Drafting.* The parties hereto have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

ARTICLE 2

THE MERGER

Section 2.01 The Merger. Upon the terms and subject to the satisfaction or written waiver (to the extent permitted by applicable Law) of the conditions set forth in this Agreement, and in accordance with the General Corporation Law of the State of Delaware (the "**DGCL**"), at the Effective Time (as defined herein), Merger Sub shall be merged with and into

the Company, and the separate corporate existence of Merger Sub shall thereupon cease, and the Company shall be the surviving corporation in the Merger (the "**Surviving Corporation**").

Section 2.02 Closing. The closing of the Merger (the "**Closing**") shall take place at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, 300 South Grand Avenue, Suite 3400, Los Angeles, CA 90071 at 10:00 a.m., Pacific time, on the second (2nd) Business Day following the satisfaction or written waiver (to the extent permitted by applicable Law) of the conditions to Closing set forth in Article 6 (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or written waiver (to the extent permitted by applicable Law) of those conditions at such time), or such other date, time or place as agreed to in writing by the parties hereto. The date on which the Closing actually occurs is referred to in this Agreement as the "**Closing Date**."

Section 2.03 Effective Time. Subject to the provisions of this Agreement, as soon as practicable on the Closing Date the parties shall file with the Secretary of State of the State of Delaware a certificate of merger with respect to the Merger, executed in accordance with, and in such form as is required by, the relevant provisions of the DGCL (the "**Certificate of Merger**"), and shall make all other filings or recordings required by the DGCL in connection with the Merger. The Merger shall become effective upon the filing of the Certificate of Merger or at such later time as is agreed to by the parties hereto and specified in the Certificate of Merger (the time at which the Merger becomes effective is herein referred to as the "**Effective Time**").

Section 2.04 Effects of the Merger. The Merger shall have the effects set forth in this Agreement, the Certificate of Merger and the applicable provisions of the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the properties, rights, privileges, powers and franchises of the Company and Merger Sub shall vest in the Surviving Corporation, and all debts, liabilities and duties of the Company and Merger Sub shall become the debts, liabilities and duties of the Surviving Corporation.

Section 2.05 Certificate of Incorporation and Bylaws of the Surviving Corporation. At the Effective Time, the Third Amended and Restated Certificate of Incorporation of the Company (the "**Certificate of Incorporation**") shall be amended as a result of the Merger so as to read in its entirety in the form of the certificate of incorporation of Merger Sub, except that the name of the Surviving Corporation shall be "Freedom Communications Holdings, Inc.", and as so amended shall be the certificate of incorporation of the Surviving Corporation until thereafter amended as provided by the DGCL and such certificate of incorporation. At the Effective Time, subject to the provisions of Section 5.09, the Bylaws of the Company (the "**Bylaws**") as in effect immediately prior to the Effective Time shall be amended as a result of the Merger to read in their entirety in the form of the bylaws of Merger Sub, and as so amended shall be the bylaws of the Surviving Corporation until thereafter amended as provided by the DGCL, the certificate of incorporation of the Surviving Corporation and such bylaws.

Section 2.06 Directors and Officers of the Surviving Corporation.

(a) The directors of Merger Sub immediately prior to the Effective Time shall, as a result of the Merger, be the directors of the Surviving Corporation immediately following the Effective Time, until their respective successors are duly elected or appointed and qualified or their earlier death, resignation or removal in accordance with the certificate of incorporation and bylaws of the Surviving Corporation.

(b) The officers of Merger Sub immediately prior to the Effective Time shall be the initial officers of the Surviving Corporation until their respective successors are duly appointed and qualified or their earlier death, resignation or removal in accordance with the certificate of incorporation and bylaws of the Surviving Corporation.

Section 2.07 Conversion of Securities. At the Effective Time, by virtue of the Merger and without any action on the part of the holder of any shares of Class A Common Stock, par value $0.001 per share ("**Class A Common Stock**"), or Class B Common Stock, par value $0.001 per share ("**Class B Common Stock**," and, together with the Class A Common Stock, the "**Company Common Stock**"), of the Company or any shares of capital stock of Parent or Merger Sub:

(a) Each issued and outstanding share of capital stock of Merger Sub shall be converted into and become one validly issued, fully paid and nonassessable share of common stock, par value $0.001 per share, of the Surviving Corporation and shall constitute the only issued and outstanding shares of capital stock of the Surviving Corporation.

(b) Any shares of Company Common Stock or Warrants that are owned by the Company as treasury stock or by any Subsidiary of the Company shall be automatically cancelled and shall cease to exist and no consideration shall be delivered in exchange therefor.

(c) Each issued and outstanding share of Company Common Stock (other than shares of Company Common Stock to be cancelled in accordance with Section 2.07(b) and Dissenting Shares (as defined herein)) shall be cancelled and shall cease to exist and shall be automatically converted into the right to receive an amount equal to (i) a Basic Fractional Interest of the Net Merger Consideration, without interest, (ii) a Basic Fractional Interest of the Escrow Amount, (iii) a Basic Fractional Interest of any Purchase Price Increase, and (iv) a Basic Fractional Interest of any Released Holdback Amount (items (i), (ii), (iii) and (iv) collectively constitute the "**Per Share Merger Consideration**"), as may be adjusted pursuant to Section 2.12 and subject to the terms of Section 9.13. At the Effective Time, each holder of (x) a certificate which, immediately prior to the Effective Time, represented any such shares of Company Common Stock (each, a "**Certificate**") and (y) shares of Company Common Stock held in book entry form ("**Book Entry Shares**") shall cease to have any rights with respect thereto, except the right to receive the Per Share Merger Consideration upon surrender of such Certificate or Book Entry Shares, as the case may be, in accordance with Section 2.08(b).

Section 2.08 Exchange of Certificates.

(a) *Paying Agent.* Prior to the Effective Time, Parent shall designate a bank or trust company reasonably acceptable to the Company to act as paying agent in the Merger (the "**Paying Agent**"), pursuant to an agreement containing terms and provisions reasonably acceptable to the Company that requires the Paying Agent to comply with the procedures set forth in this Section 2.08. At or immediately prior to the Effective Time, Parent shall deposit with the Paying Agent funds in an amount equal to the Net Merger Consideration. In addition, concurrently with depositing the Net Merger Consideration with the Paying Agent, Parent shall make the deposits with the Escrow Agent contemplated by clause (ii) of Section 2.08(i). The Net Merger Consideration deposited with the Paying Agent shall, pending its disbursement, be invested by the Paying Agent as directed by Parent in (i) short-term direct obligations of the United States of America, (ii) short-term obligations for which the full faith and credit of the United States of America is pledged to provide for the payment of principal and interest, (iii) short-term commercial paper rated the highest quality by either Moody's Investors Service, Inc. or Standard and Poor's Ratings Services or (iv) money market funds investing solely in a combination of the foregoing. Parent shall promptly replace any funds deposited with the Paying Agent lost through any investment made pursuant to this Section 2.08(a). The Paying Agent shall cause such Net Merger Consideration to be (x) held for the benefit of holders of Company Common Stock and Warrants and (y) applied promptly to making the payments to such holders as required by the terms hereof.

(b) *Payment Procedures*. Promptly after the Effective Time (but in no event more than two (2) Business Days thereafter), the Surviving Corporation shall cause the Paying Agent to mail to each holder of record of (i) a Certificate or Certificates (or evidence of Book Entry Shares) whose shares of Company Common Stock were converted pursuant to Section 2.07(c) into the right to receive the Per Share Merger Consideration and (ii) Warrants whose Warrants were converted into the right to receive the Per Warrant Merger Consideration in accordance with Section 2.10(b): (A) a letter of transmittal (a "**Letter of Transmittal**") which shall (1) specify that delivery shall be effected, and risk of loss and title to the Certificates, Book Entry Shares or Warrants shall pass, only upon delivery of the Certificates, Book Entry Shares or Warrants to the Paying Agent, (2) be in such form and shall have such other customary provisions as Parent and the Company may reasonably agree, and (3) with respect to Warrants, specify that, by executing the Letter of Transmittal, the holder of a Warrant consents to the treatment of Warrants as provided in this Agreement; and (B) instructions for use in effecting the surrender of the Certificates, Book Entry Shares or Warrants in exchange for the Per Share Merger Consideration or the Per Warrant Merger Consideration, with respect to each such share or warrant. Upon surrender of a Certificate, Book Entry Share or Warrant, in each case, to the Paying Agent, together with such Letter of Transmittal, duly completed and validly executed in accordance with the instructions (and such other customary documents as may reasonably be required by the Paying Agent), the holder of such Certificate, Book Entry Share or Warrant shall be entitled to receive in exchange therefor the Per Share Merger Consideration or the Per Warrant Merger Consideration, as the case may be, without interest, for each share of Company Common Stock or Warrant formerly represented by such Certificate, Book Entry Share or Warrant, and the Certificate, Book Entry Share or Warrant so surrendered, if applicable, shall forthwith be cancelled.

(c) *Unregistered Transferees*. If any part of the Per Share Merger Consideration or any part of the Per Warrant Merger Consideration is to be paid to a Person other than the Person in whose name the surrendered Certificate, Book Entry Share or Warrant is registered, it shall be a condition of payment that (i) in the case of a Certificate, the Certificate so surrendered shall be properly endorsed or shall otherwise be in proper form for transfer, and (ii) in the case of a Certificate, Book Entry Share or Warrant, the Person requesting such payment shall have paid any transfer and other Taxes (as defined herein) required by reason of the payment of any part of the Per Share Merger Consideration or any part of the Per Warrant Merger Consideration to a Person other than the registered holder of such Certificate, Book Entry Share or Warrant or shall have established to the reasonable satisfaction of the Surviving Corporation that such Tax either has been paid or is not applicable.

(d) *Transfer Books; No Further Ownership Rights in Company Common Stock.* The Per Share Merger Consideration or the Per Warrant Merger Consideration, as the case may be, paid or payable in exchange for shares of Company Common Stock or Warrants upon the surrender of Certificates, Book Entry Shares or Warrants in accordance with the terms of this Article 2 shall be deemed to have been paid in full satisfaction of all rights pertaining to the shares of Company Common Stock or Warrants previously represented thereby and, at the Effective Time, the stock transfer books of the Company shall be closed and thereafter there shall be no further registration of transfers on the stock transfer books of the Surviving Corporation of the shares of Company Common Stock or Warrants that were outstanding immediately prior to the Effective Time. From and after the Effective Time, the holders of Certificates, Book Entry Shares or Warrants that consented to the treatment of Warrants as provided in this Agreement by executing a Letter of Transmittal shall cease to have any rights with respect to such shares of Company Common Stock or Warrants formerly represented thereby, except as otherwise provided for herein, in the Escrow Agreement or by applicable Law. Subject to Section 2.08(f), if, at any time after the Effective Time, Certificates, Book Entry Shares or Warrants are presented to the Surviving Corporation for any reason, they shall be cancelled and exchanged as provided in this Article 2.

(e) *Lost*, *Stolen or Destroyed Certificates.* If any Certificate or Warrant shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such Certificate or Warrant to be lost, stolen or destroyed and, if required by Parent or the Surviving Corporation, the posting by such Person of a bond in such amount as is sufficient to provide a full indemnity against any claim that may be made against it with respect to such Certificate or Warrant, the Paying Agent will pay, in exchange for such lost, stolen or destroyed Certificate or Warrant, the applicable Per Share Merger Consideration or the applicable Per Warrant Merger Consideration, as the case may be, to be paid in respect of the shares of Company Common Stock formerly represented by such Certificate or in respect of the Warrant, as contemplated by this Article 2.

(f) *Termination of Fund.* At any time following the twelve (12) month anniversary of the Closing Date, the Surviving Corporation shall be entitled to require the Paying Agent to deliver to it any funds (including any interest received with respect thereto) that had been made available to the Paying Agent and which have not been disbursed to holders of Certificates, Book Entry Shares or Warrants, and thereafter such holders shall be entitled to look only to Parent and the Surviving Corporation (subject to abandoned property, escheat or other

similar Laws and, with respect to holders of Warrants that did not consent to the treatment of Warrants as provided in this Agreement by executing a Letter of Transmittal, the terms of the Warrant contract) as general creditors thereof with respect to the payment of any part of the Per Share Merger Consideration or any part of the Per Warrant Merger Consideration, as the case may be, without any interest, that may be payable upon surrender of any Certificates, Book Entry Shares or Warrants held by such holders, as determined pursuant to this Agreement and the Escrow Agreement. Any amounts remaining unclaimed by such holders immediately prior to the time at which such amounts would otherwise escheat or become property of any Governmental Authority shall become, to the extent permitted by applicable Law, the property of Parent, free and clear of all claims or interest of any Person previously entitled thereto.

(g) *No Liability.* Notwithstanding any provision of this Agreement to the contrary, none of the parties hereto, the Surviving Corporation or the Paying Agent shall be liable to any Person for any part of the Per Share Merger Consideration or any part of the Per Warrant Merger Consideration, as the case may be, delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law.

(h) *Withholding Taxes.* The Company, Parent, the Surviving Corporation and the Paying Agent shall be entitled to deduct and withhold from the amounts otherwise payable to a holder of Restricted Stock Units pursuant to Section 2.10(a) of this Agreement, such amounts as may be required to be deducted and withheld with respect to the making of such payment under the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder (the "**Code**"), or under any provision of state, local or foreign Tax Law. To the extent amounts are so withheld and paid over to the appropriate Governmental Authority, the withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made. If any withholding obligation may be avoided by such holder providing information or documentation to Parent, the Surviving Corporation or the Paying Agent, such information shall be requested prior to any such withholding.

(i) *Escrow*.

(i) Not less than five (5) Business Days prior to the anticipated Closing Date, the Company shall provide Parent with a schedule specifying the amount of unpaid Severance Expense related to each Non-Retained Business Employee, the date such amounts are due and the total Severance Escrow Amount. Parent shall have the opportunity to review such schedule, and the Company shall cooperate with Parent in good faith to agree upon the amount of the Severance Escrow Amount in the event Parent disputes any such amounts on the schedule.

(ii) At or immediately prior to the Effective Time, (A) the parties shall execute and deliver, or cause to be executed and delivered, the Escrow Agreement and (B) Parent shall deposit with the Escrow Agent, by wire transfer of immediately available funds, an amount (the "**Escrow Amount**") equal to the *sum* of (x) the Indemnification Escrow Amount, (y) the Severance Escrow Amount, and (y) the Stockholder Representative Expense Amount. The Escrow Amount will be held and disbursed as provided in the Escrow Agreement.

The parties will promptly give any necessary instructions to the Escrow Agent to carry out the purposes of this Agreement and the Escrow Agreement.

Section 2.09 Appraisal Rights.

(a) Notwithstanding anything in this Agreement to the contrary, shares of Company Common Stock that are issued and outstanding immediately prior to the Effective Time and which are held by a stockholder who did not vote in favor of adoption of this Agreement (or consent thereto in writing) and who is entitled to demand and properly demands appraisal of such shares pursuant to, and who complies in all respects with, the provisions of Section 262 of the DGCL (the "**Dissenting Stockholders**") shall not be converted into the right to receive the Per Share Merger Consideration (the "**Dissenting Shares**"), but instead such holder shall be entitled only to such rights as may be granted to him, her, it or them under Section 262 of the DGCL (and at the Effective Time, such Dissenting Shares shall no longer be outstanding and shall automatically be cancelled and cease to exist, and such Dissenting Stockholder shall cease to have any rights with respect thereto, except the right to receive the appraised value of such Dissenting Shares in accordance with the provisions of Section 262 of the DGCL), unless and until such holder shall have failed to perfect or shall have effectively withdrawn or lost rights to appraisal under the DGCL.

(b) Notwithstanding the foregoing, if any Dissenting Stockholder shall have failed to perfect or shall have effectively withdrawn or lost such right (through failure to perfect such appraisal rights or otherwise) to seek payment of the appraised value of such Dissenting Shares, such Dissenting Stockholder's shares of Company Common Stock (i) shall no longer be deemed Dissenting Shares and (ii) shall be treated as if they had been converted into the right to receive, as of the Effective Time, the Per Share Merger Consideration for each such share of Company Common Stock, in accordance with Section 2.07, without any interest thereon. Parent shall promptly deposit with the Paying Agent any additional funds necessary to pay in full the aggregate Per Share Merger Consideration so due and payable to such Dissenting Stockholders who have failed to perfect or who shall have effectively withdrawn or lost such right to seek payment of the appraisal value of such Dissenting Shares.

(c) The Company shall provide Parent (i) prompt notice of any written demands for appraisal of any shares of Company Common Stock, attempted withdrawals of such demands and any other instruments served pursuant to the DGCL and received by the Company relating to stockholders' rights of appraisal and (ii) with the opportunity to direct all negotiations and proceedings with respect to demands for appraisal under the DGCL. The Company shall not offer to make, agree to make, or make any payment with respect to any demands for appraisal without the prior written consent of Parent, which consent shall not be unreasonably withheld, conditioned or delayed.

Section 2.10 Restricted Stock Units and Warrants. Prior to the Effective Time, the Company shall take all action necessary (including any necessary determinations and/or resolutions of the board of directors of the Company or any committee thereof) such that:

(a) Immediately prior to the Effective Time, each Restricted Stock Unit award granted under the Company Stock Plan that is outstanding as of the Effective Time

shall be terminated and converted into the right to receive a cash payment in an amount determined in accordance with the terms of the Company Stock Plan (each such payment, an "**RSU Payment**" and, the aggregate amount of all RSU Payments, the "**Aggregate RSU Payment**"), payable by the Company to the holder thereof on the Closing Date, less applicable income tax withholdings thereon as provided in Section 2.08(h), through the Company's payroll; and

(b) Effective as of the Effective Time, each unexpired and unexercised warrant to purchase shares of Company Common Stock (the "**Warrants**") pursuant to a Contract to which the Company is a party shall be cancelled and, in exchange therefor, each such cancelled Warrant shall be converted into the right to receive, in consideration of such cancellation, an amount equal to (i) the Warrant Fractional Interest corresponding to such Warrant of the Net Merger Consideration, *less* the aggregate exercise price per share of Company Common Stock subject to such Warrant without interest, (ii) the Warrant Fractional Interest corresponding to such Warrant of the Escrow Amount, (iii) the Warrant Fractional Interest corresponding to such Warrant of any Purchase Price Increase, and (iv) the Warrant Fractional Interest corresponding to such Warrant of any Released Holdback Amount (items (i), (ii), (iii) and (iv) collectively constitute the "**Per Warrant Merger Consideration**"), as may be adjusted pursuant to Section 2.12 and subject to the terms of Section 9.13.

Section 2.11 Adjustments. Notwithstanding any provision of this Article 2 to the contrary, if between the date of this Agreement and the Effective Time the outstanding shares of Company Common Stock shall have been changed into a different number of shares or a different class by reason of the occurrence or record date of any stock dividend, subdivision, reclassification, recapitalization, split, combination, exchange of shares or similar transaction, the Per Share Merger Consideration and Per Warrant Merger Consideration shall be appropriately adjusted to reflect such stock dividend, subdivision, reclassification, recapitalization, split, combination, exchange of shares or similar transaction.

Section 2.12 Post-Closing Adjustments.

(a) Not less than five (5) Business Days prior to the anticipated Closing Date, the Company shall provide Parent with (i) an estimated statement of Net Cash and Cash Equivalents as of the Closing Date (the "**Statement of Estimated Net Cash and Cash Equivalents**") and (ii) an estimated statement of Working Capital as of the Closing Date (the "**Statement of Estimated Closing Working Capital**"), which shall be accompanied by a notice that sets forth the Company's good faith estimate of the amount (the "**Closing Working Capital Adjustment Amount**" which, for the avoidance of doubt, may be a negative number) that shall be equal to (A) the amount of Working Capital set forth in the Statement of Estimated Closing Working Capital, *less* (B) the Target Working Capital. The Statement of Estimated Net Cash and Cash Equivalents shall be prepared in accordance with the provisions of the definition of "Net Cash and Cash Equivalents" and the definitions included therein. The Statement of Estimated Closing Working Capital shall be prepared in accordance with the provisions of the definition of "Working Capital" and the example statement of Working Capital attached as *Exhibit C*. Parent shall have an opportunity to review the Statement of Estimated Net Cash and Cash Equivalents and the Statement of Estimated Closing Working Capital, and the Company shall cooperate with Parent in good faith to agree upon the amount of the estimated Net Cash and

Cash Equivalents as of the Closing Date and the Closing Working Capital Adjustment Amount in the event Parent disputes any item set forth in such statements.

(b) If the sum of (x) the amount of Net Cash and Cash Equivalents set forth on the Final Closing Statement (as defined herein), plus (y) the amount of Working Capital set forth on the Final Closing Statement (the "**Final Net Current Asset Amount**"), is greater than the sum of (x) the amount of Net Cash and Cash Equivalents set forth in the Statement of Estimated Net Cash and Cash Equivalents, and (y) the amount of Working Capital set forth in the Statement of Estimated Closing Working Capital (the "**Estimated Net Current Asset Amount**"), then Parent shall pay in cash to the Paying Agent, for the benefit of the holders of shares of Company Common Stock and Warrants, the amount of such difference and the Paying Agent shall distribute such amount to holders of shares of Company Common Stock and Warrants in the manner provided in this Article 2. Any such payment by Parent shall be made within two (2) Business Days after the amount of Net Cash and Cash Equivalents is finally determined in accordance with this Section 2.12, together with interest thereon at the prime rate of JPMorgan Chase Bank, N.A. calculated and payable in cash in accordance with Section 2.12(i) from the Closing Date until the date of payment. If, on the other hand, the Final Net Current Asset Amount is less than the Estimated Net Current Asset Amount , then Parent and the Stockholder Representative shall deliver joint written notice to the Escrow Agent specifying the amount of such difference and the Escrow Agent shall, within two (2) Business Days of its receipt of such notice and in accordance with the terms of the Escrow Agreement, pay such amount to Parent by wire transfer of immediately available funds from the Indemnification Escrow Amount. In the event the Indemnification Escrow Amount then remaining in escrow is insufficient to cover the amount of such adjustment, the Escrow Agent shall distribute the entire amount of the Indemnification Escrow Amount then remaining in escrow to Parent in full satisfaction of such adjustment. Notwithstanding anything in this Agreement to the contrary, to the extent the Indemnification Escrow Amount is insufficient to pay to Parent any adjustment pursuant to this Section 2.12(b) in full, Parent shall have no claim or remedy against any Person, including without limitation any holder of shares of Company Common Stock or Warrants or the Stockholder Representative for any such amounts.

(c) [Reserved.]

(d) Within forty-five (45) days after the Closing Date, Parent shall prepare and deliver to the Stockholder Representative a statement of Net Cash and Cash Equivalents as of the Closing Date and a statement of Working Capital as of the Closing Date (the "**Initial Closing Statement**"). The Initial Closing Statement shall be prepared in accordance with the provisions of the definition of "Net Cash and Cash Equivalents," and the definitions included therein, and the definition of "Working Capital," and the example statement of Working Capital attached as *Exhibit C*.

(e) Parent shall, upon the Stockholder Representative's written request, make available to the Stockholder Representative a copy of all books, records and work papers utilized by Parent in the preparation of the Initial Closing Statement. The Stockholder Representative shall notify Parent in writing within the twenty (20) day period immediately following the Stockholder Representative's receipt of the Initial Closing Statement (the "**Review Period**") if the Stockholder Representative believes the Initial Closing Statement contains

mathematical errors or was not prepared in accordance with Section 2.12(d), which notice shall set forth the Stockholder Representative's objections in reasonable detail, the basis for such belief, and the Stockholder Representative's proposed calculations of Net Cash and Cash Equivalents as of the Closing Date and Working Capital as of the Closing Date (the "**Notice of Disagreement**"). If the Stockholder Representative timely delivers to Parent a Notice of Disagreement, only those matters specified in such Notice of Disagreement shall be deemed to be in dispute (the "**Unresolved Items**"), and all other matters included in the Initial Closing Statement shall be deemed to be final and binding on the parties hereto (except to the extent impacted by the Unresolved Items). If no Notice of Disagreement is received by Parent prior to the expiration of the Review Period or if the Stockholder Representative notifies Parent in writing that it accepts the Initial Closing Statement, then the Initial Closing Statement shall be deemed to have been accepted by the Stockholder Representative and shall become final and binding upon the parties in accordance with Section 2.12(g).

(f) During the fifteen (15) days immediately following the delivery of a Notice of Disagreement, if any (the "**Consultation Period**"), the Stockholder Representative and Parent shall seek in good faith to resolve any differences that they may have with respect to the Unresolved Items.

(g) If at the end of the Consultation Period the Stockholder Representative and Parent have been unable to resolve any Unresolved Items, the Stockholder Representative and Parent shall submit all matters that remain in dispute with respect to the Notice of Disagreement (along with a copy of the Initial Closing Statement marked to indicate those line items that are not in dispute) to the Independent Arbiter. Within ten (10) Business Days after such arbiter's selection, the Independent Arbiter shall make a final determination, binding on the parties to this Agreement, of the appropriate amount of each Unresolved Item which the Stockholder Representative and Parent have submitted to the Independent Arbiter. With respect to each such Unresolved Item, such determination shall be in accordance with the position of either the Stockholder Representative or Parent advocated by the Parent in the Initial Closing Statement or by the Stockholder Representative in the Notice of Disagreement with respect to such disputed line item. The Net Cash and Cash Equivalents and Working Capital that is final and binding on the parties, as determined either through agreement of the parties pursuant to Section 2.12(e) or Section 2.12(f) or through the action of the Independent Arbiter pursuant to this Section 2.12(g) is referred to as the "**Final Closing Statement**" and shall be final and binding on the parties hereto. The Company and Parent agree that the procedure set forth in this Section 2.12 for resolving disputes with respect to Net Cash and Cash Equivalents and Working Capital shall be the sole and exclusive method for resolving such disputes, *provided* that the parties hereto agree that judgment may be entered upon the determination of the Independent Arbiter in any court having jurisdiction over the party against which such determination is to be enforced.

(h) The cost of the Independent Arbiter's review and determination shall be borne in the same proportion as the aggregate amount of the Unresolved Items that are unsuccessfully disputed by each party (as determined by the Independent Arbiter) bears to the total amount of the Unresolved Items submitted to the Independent Arbiter. In resolving any Undisputed Item, the Independent Arbiter shall (i) be bound by the provisions of this Section 2.12, the Initial Closing Statement, the definition of "Net Cash and Cash Equivalents,"

and the definitions included therein, and the definition of "Working Capital," and the example statement of Working Capital attached as *Exhibit C*, (ii) limit its review to the Unresolved Items submitted to the Independent Arbiter for resolution (except to the extent other items are impacted by the Unresolved Items), and shall be instructed not to otherwise investigate matters independent of such items and (iii) further limit its review solely to whether the Initial Closing Statement has been prepared in accordance with Section 2.12(a) or contains any mathematical error. During the review by the Independent Arbiter, Parent and the Stockholder Representative and their accountants will each make available to the Independent Arbiter interviews with such personnel, and such information, books and records and work papers, as may be reasonably required by the Independent Arbiter to fulfill its obligations under this Section; *provided*, *however*, that the accountants of the Stockholder Representative or Parent shall not be obliged to make any work papers available to the Independent Arbiter except in accordance with such accountants' normal disclosure procedures and then only after such arbiter has signed a customary agreement relating to such access to work papers in form and substance reasonably acceptable to such accountants. In acting under this Agreement, the Independent Arbiter will be entitled to the privileges and immunities of an arbitrator.

(i) All payments required to be made pursuant to Section 2.12(b) and Section 2.12(c) above shall be paid by wire transfer in immediately available funds to the account or accounts designated by the party receiving such payment. All computations of interest shall be made on the basis of a year of 365 days, in each case for the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest is payable. Whenever any payment under this Agreement shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall be included in the computation of, and payment of, interest.

Section 2.13 Closing Pension Adjustment Amount. Not less than seven (7) Business Days prior to the anticipated Closing Date, the Company shall provide Parent with the Company's good faith calculation of the Closing Pension Adjustment Amount. Such calculation shall be prepared in accordance with the definition of "Closing Pension Adjustment Amount," and the definitions included therein, and shall include in reasonable detail the information relied upon by the Company to arrive at such calculation. Parent shall have the opportunity to review such calculation, and the Company shall cooperate with Parent in good faith to agree upon the amount of the Closing Pension Adjustment Amount in the event Parent disputes such calculation.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as specifically disclosed in the corresponding schedule of the disclosure schedule delivered by the Company to Parent simultaneously with the execution of this Agreement (the "**Company Disclosure Schedule**") (it being understood that any matter disclosed in the Company Disclosure Schedule shall be deemed disclosed with respect to any schedule of the Company Disclosure Schedule to which the matter relates to the extent the relevance to each such schedule is reasonably apparent), the Company represents and warrants to Parent and Merger Sub as follows:

Section 3.01 Organization, Standing and Corporate Power.

(a) The Company is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware and has all requisite corporate power and authority necessary to own or lease all of its properties and assets and to carry on its business as it is now being conducted. The Company and each of its Subsidiaries is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so licensed, qualified or in good standing would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Prior to the date of this Agreement, the Company has delivered to Parent complete and correct copies of the Certificate of Incorporation and Bylaws, which are currently in effect.

(b) Each of the Company's Subsidiaries is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its organization and has all requisite corporate (or other) power and authority necessary to own or lease all of its properties and assets and to carry on its business as it is now being conducted, except where the failure to be so duly qualified and in good standing would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. A list of the names of the Company's Subsidiaries, including their jurisdiction of organization, number of issued and outstanding capital stock or other equity interests, and the name of any equityholder and the aggregate percentage of equity in each Subsidiary held by any Person other than the Company or any of its Subsidiaries is set forth on *Schedule 3.01(b)* of the Company Disclosure Schedule. Prior to the date of this Agreement, the Company has delivered to Parent complete and correct copies of the certificate of incorporation and bylaws (or comparable organizational documents) of each of the Company's Subsidiaries, which are currently in effect.

Section 3.02 Capitalization.

(a) The authorized capital stock of the Company consists of 21,000,000 shares of Class A Common Stock and 21,000,000 shares of Class B Common Stock. At the close of business on May 31, 2012, (i) 202,357 shares of Class A Common Stock and 4,188,316 shares of Class B Common Stock were issued and outstanding, (ii) 3,745 shares of Class A Common Stock were held by the Company in its treasury, (iii) 513,012 Restricted Stock Units were credited to participants under their accounts under the Company Stock Plans and (iv) Warrants to purchase up to an aggregate of 2,636,862 shares of Company Common Stock were issued and outstanding.

(b) *Schedule 3.02(b)* of the Company Disclosure Schedule sets forth, as of May 31, 2012, a list of all participants holding outstanding Restricted Stock Unit awards granted under the Company Stock Plan, and, in the case of each such award, the date of grant, the number of Restricted Stock Units subject to such award and the number of vested Restricted Stock Units subject to such award.

(c) Except as set forth in this Section 3.02 or on *Schedule 3.01(b)*, *Schedule 3.02(b)* or *Schedule 3.02(c)* of the Company Disclosure Schedule, as of May 31, 2012,

there were (i) no outstanding shares of capital stock of, or other equity or voting interest in, the Company or any of its Subsidiaries, (ii) no outstanding securities of the Company or any of its Subsidiaries convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, the Company or any of its Subsidiaries, (iii) no outstanding options, warrants, rights or other commitments or agreements to acquire from the Company or any of its Subsidiaries, or that obligate the Company or any of its Subsidiaries to issue or register, or that restrict the transfer or voting of, any capital stock of, or other equity or voting interest in, or any securities convertible into or exchangeable for shares of capital stock of, or other equity or voting interest in, the Company or any of its Subsidiaries, (iv) no obligations of the Company or any of its Subsidiaries to grant, extend or enter into any subscription, warrant, right, convertible or exchangeable security or other similar agreement or commitment relating to any capital stock of, or other equity or voting interest (including any voting debt) in, the Company or any of its Subsidiaries (the items in clauses (i), (ii), (iii) and (iv), together with the capital stock of the Company and its Subsidiaries, being referred to collectively as "**Company Securities**") and (v) no other obligations by the Company or any of its Subsidiaries to make any payments based on the price or value of any Company Securities or dividends paid thereon or revenues, earnings or financial performance or any other attribute of the Company. There are no outstanding agreements of any kind which obligate the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any Company Securities, or obligate the Company to grant, extend or enter into any such agreements, and neither the Company nor any of its Subsidiaries has any outstanding bonds, debentures, notes or other obligations, the holders of which have the right to vote (or that are convertible into or exercisable for securities having the right to vote) with the holders of the Company Common Stock on any matter. No direct or indirect Subsidiary of the Company owns any Company Common Stock. Except as set forth on *Schedule 3.02(c)* of the Company Disclosure Schedule, all outstanding shares of Company Common Stock have been duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights and are not subject to any outstanding obligations of the Company or any of its Subsidiaries requiring the registration under any securities Law for sale of such shares of capital stock. Since May 31, 2012, the Company has not issued any Company Securities, other than shares of Company Common Stock pursuant to Restricted Stock Units or Warrants referred to above, that were outstanding as of such date.

(d) Except as set forth on *Schedule 3.02(d)* of the Company Disclosure Schedule, (i) each outstanding share of capital stock or ownership interest of each Subsidiary of the Company is duly authorized, validly issued, fully paid, nonassessable and free of preemptive rights and is held, directly or indirectly, by the Company or another Subsidiary of the Company free and clear of all Liens and (ii) other than any Subsidiary of the Company, the Company and its Subsidiaries do not directly or indirectly own any equity or similar interest in, or any interest convertible into or exchangeable or exercisable for any equity or similar interest in, any corporation, partnership, joint venture or other business association or entity.

(e) Except as set forth on *Schedule 3.02(e)* of the Company Disclosure Schedule, there are no voting trusts, voting agreements or other agreements or understandings to which the Company or any of its Subsidiaries is a party with respect to the voting, transfer, control or registration of the capital stock or other equity interest of the Company or any of its Subsidiaries or granting any person the right to elect, or to designate or nominate for election, a director to the board of directors of the Company or any of its Subsidiaries.

Section 3.03 Authority; Noncontravention; Voting Requirements.

(a) The Company has all necessary corporate power and authority to execute and deliver this Agreement and the other Transaction Documents to which it is a party and, subject to obtaining the Company Stockholder Approval (as defined herein), to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, and the consummation by it of the transactions contemplated hereby and thereby, have been duly authorized and approved by the board of directors of the Company, and except for obtaining the Company Stockholder Approval, no other corporate action on the part of the Company is necessary to authorize and approve the execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party and the consummation by it of the transactions contemplated hereby and thereby. This Agreement has been duly executed and delivered by the Company and, assuming due authorization, execution and delivery hereof and thereof by Parent and Merger Sub, constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforceability (i) may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar Laws of general application affecting or relating to the enforcement of creditors' rights generally and (ii) is subject to general principles of equity, whether considered in a proceeding at Law or in equity (collectively, the "**Bankruptcy and Equity Exception**").

(b) The board of directors of the Company, at a meeting duly called and held, has (i) approved the execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby, including the Merger, (ii) determined that it is in the best interests of the Company and its stockholders, and declared it advisable, to enter into this Agreement, and (iii) resolved, subject to Section 5.04 hereof, to recommend that the stockholders of the Company adopt this Agreement and approve the transactions contemplated hereby, including the Merger (the "**Company Board Recommendation**").

(c) Except as set forth on *Schedule 3.03(c)* of the Company Disclosure Schedule, neither the execution and delivery of this Agreement by the Company or the other Transaction Documents to which it is a party nor the consummation or performance by the Company of the transactions contemplated hereby or thereby, nor compliance by the Company with any of the terms or provisions hereof or thereof, will (i) conflict with or violate any provision of the Certificate of Incorporation or Bylaws or conflict with or violate any provision of the organizational documents of any of the Company's Subsidiaries or (ii) (A) assuming that the Company Stockholder Approval is obtained and the filings referred to in Section 3.04 are made, violate any material Law or Order applicable to the Company or any of its Subsidiaries in any material respect, (B) with or without notice, lapse of time or both, violate, conflict with, result in a breach of any provision of or constitute a default (or an event which, with notice or lapse of time or both would become a default) under any of the terms, conditions or provisions of any loan or credit agreement, debenture, note, bond, mortgage, indenture, deed of trust, lease, license, contract or other agreement (each, a "**Contract**") to which the Company or any of its Subsidiaries is a party (*provided*, that for purposes of this clause (B) the term Contract shall not include (x) any lease, license or other agreement relating to the occupancy of real property

(which are addressed in Section 3.13 hereof) or (y) any Contract that primarily relates to the Other Freedom Businesses and that has been or is being transferred or otherwise disposed of in connection with the Disposition Transactions) or accelerate or give rise to a right of termination, purchase, sale, cancellation, modification or acceleration of any of the Company's or, if applicable, its Subsidiaries', obligations under any such Contract or to the loss of any benefit under a Contract, or (C) result in the creation of any material Lien (other than any Permitted Encumbrance) on any properties, rights or assets of the Company or any of its Subsidiaries, except, in the case of clause (ii)(B), for such violations, defaults, accelerations or rights as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(d) The affirmative vote of the holders of a majority of the outstanding shares of Company Common Stock, voting together as a single class, entitled to vote on the adoption of this Agreement and approval of the transactions contemplated hereby, including the Merger (the "**Company Stockholder Approval**"), is the only vote or approval of the holders of any class or series of capital stock of the Company or any of its Subsidiaries which is necessary to adopt this Agreement and approve the transactions contemplated hereby.

Section 3.04 Governmental Approvals. Except for (a) the filing of the Certificate of Merger with the Secretary of State of the State of Delaware pursuant to the DGCL, (b) filings required under, and compliance with other applicable requirements of, the HSR Act and (c) a "reportable event" (within the meaning of Section 4043 of ERISA) notice filing with the PBGC, no consents or approvals of, or filings, declarations or registrations with, or notices to, any Governmental Authority are necessary for the execution and delivery of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby, other than such other consents, approvals, filings, declarations or registrations that, if not obtained, made or given, would not reasonably be expected to impair in any material respect the ability of the Company to perform its obligations under this Agreement or prevent or materially delay consummation of the transactions contemplated hereby.

Section 3.05 Company Financial Statements; Undisclosed Liabilities.

(a) (i) The audited consolidated balance sheet of the Company as of December 31, 2011, and the related audited consolidated statements of operations, other comprehensive loss, stockholders' equity and cash flows (and the notes thereto) for the year ended December 31, 2011 (the "**2011 Audited Company Financial Statements**"), (ii) the audited consolidated balance sheets of the Company as of December 2009 and 2010, and the related audited consolidated statements of operations, other comprehensive income (loss), stockholders' equity (deficiency) and cash flows (and the notes thereto for each of the three years ended December 31, 2010) (the "**2010 Audited Company Financial Statements**" and, together with the 2011 Audited Company Financial Statements, the "**Audited Company Financial Statements**") and (iii) the unaudited consolidated balance sheet of the Company as of March 31, 2012, and the related unaudited consolidated statement of operations for the three months then ended (the "**Interim Company Financial Statements**" and, together with the Audited Company Financial Statements, the "**Company Financial Statements**"), complete and correct copies of which are set forth on *Schedule 3.05(a)* of the Company Disclosure Schedule), were prepared in accordance with the books and records of the Company and with GAAP, consistently applied

during the applicable periods (except as may be indicated in the notes thereto) and present fairly in all material respects the consolidated financial position of the Company and its Subsidiaries as of the applicable dates, and the consolidated results of their operations and cash flows for each of the applicable periods, subject to, in the case of the Interim Company Financial Statements, (x) the absence of statements of other comprehensive income (loss), stockholders' equity (deficiency), cash flows and footnotes for the periods covered thereby, and (y) normal year-end audit adjustments consistent with past practice. The Company has provided Parent with a true and correct copy of the independent auditors' report relating to the Audited Company Financial Statements. All accounts receivables and prepaid expenses as reflected in the Company Financial Statements and in the calculation of Working Capital represent or will represent valid obligations arising from the sale of products actually made or services actually performed by the Company in the normal course of business.

(b) Neither the Company nor any of its Subsidiaries has any Liabilities, and there is no existing condition, situation or set of circumstances which is reasonably expected to result in such Liabilities, except Liabilities (i) reflected or reserved against on the consolidated balance sheet of the Company as of March 31, 2012 (the "**Balance Sheet Date**") included in the Company Financial Statements, (ii) incurred after the Balance Sheet Date in the ordinary course of business consistent with past practice that do not have, and are not reasonably likely to have, individually or in the aggregate, a Company Material Adverse Effect, (iii) contemplated by this Agreement or otherwise incurred in connection with the transactions contemplated hereby, (iv) contemplated by the Disposition Agreements or otherwise incurred in connection with the consummation of the Disposition Transactions or (v) as set forth on *Schedule 3.05(b)* of the Company Disclosure Schedule. All accounts payable and accrued expenses as reflected in the Company Financial Statements and in the calculation of Working Capital represent or will represent valid obligations arising in the normal course of business.

(c) The Company and its Subsidiaries maintain systems of internal accounting controls sufficient to provide reasonable assurances that: (i) the Company's and its Subsidiaries' transactions are executed in accordance with management's general or specific authorization; (ii) the Company's and its Subsidiaries' transactions are recorded as necessary to permit the preparation of financial statements in conformity with GAAP and to maintain accountability for its assets; and (iii) access to the Company's and its Subsidiaries' assets is generally permitted only in accordance with management's general or specific authorization. The Company has made available to Parent copies of the Company's significant policies, manuals and other documents promulgating, such internal accounting controls.

Section 3.06 Absence of Certain Changes.

(a) Except (x) as set forth on *Schedule 3.06(a)* of the Company Disclosure Schedule, (y) for the transactions contemplated by this Agreement and (z) for the entering into the Disposition Agreements and the consummation of the Disposition Transactions, since the Balance Sheet Date through the date of this Agreement, the Retained Businesses have been carried on and conducted, in all material respects, in the ordinary course of business consistent with past practice.

(b) Except (x) as set forth on *Schedule 3.06(a)* of the Company Disclosure Schedule, (y) for the transactions contemplated by this Agreement and (z) for the entering into the Disposition Agreements and the consummation of the Disposition Transactions, since the Balance Sheet Date through the date of this Agreement, there has not been:

(i) any event, change, occurrence or effect that has had or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect;

(ii) any issuance, sale, grant, or Lien imposed upon any shares of capital stock or other ownership interests (or any securities or rights convertible into, exchangeable or exercisable for, or evidencing the right to subscribe for any shares of capital stock) or any rights, warrants or options to purchase shares of capital stock or other ownership interests of the Company or any of its Subsidiaries;

(iii) any redemption, repurchase or other acquisition of shares of capital stock, or any rights, warrants or options to acquire shares of capital stock or other ownership interests, of the Company or any of its Subsidiaries;

(iv) any declaration of or payment of any dividend on or other distribution in respect of the capital stock or other ownership interests of the Company or any of its Subsidiaries;

(v) any split, combination, subdivision or reclassification of any shares of capital stock or other ownership interests of the Company or any of its Subsidiaries;

(vi) with respect to the Retained Businesses only, any sale, lease, license, mortgage or other disposition of any of the properties, rights or assets of the Company or any of its Subsidiaries, except for (A) sales and licenses of products and services of the Company and its Subsidiaries in the ordinary course of business consistent with past practice, (B) dispositions of obsolete or worthless assets or (C) transfers among the Company and its wholly owned Subsidiaries;

(vii) any material loans, advances or capital contributions to, or material investments in, any other Person other than the Company and its Subsidiaries (other than advances to employees in accordance with the Company's existing policies);

(viii) any material acquisitions of any corporation, partnership or other business organization or any division thereof or equity interests therein or a substantial portion of the assets thereof, or any material real property;

(ix) any commencement, payment, discharge, settlement or compromise of any material Action;

(x) except as required by applicable Law or the terms and conditions of any Company Plan or other agreement in effect immediately prior to the date of this Agreement, any material increase in the compensation of any Retained Business Employee other than in the ordinary course of business consistent with past practice;

(xi) any grant or payment of any material severance or termination pay to, or any material increase in the severance or termination pay of, any Retained Business Employee other than pursuant to the Freedom Communications Severance Plan or any separate severance agreement with any Retained Business Employee to which the Company or any of its Subsidiaries is a party in effect immediately prior to the date of this Agreement;

(xii) any grants of equity or equity-based compensation;

(xiii) any establishment, adoption, entry into, termination, or material amendment to any collective bargaining agreement or Company Plan;

(xiv) any hire, promotion, demotion or other material change in the employment status of any publisher of a Retained Business or vice-president of the Company and its Subsidiaries;

(xv) any material change in financial or tax accounting methods, principles or practices except as required under GAAP or by applicable Law;

(xvi) any change to any material Tax election, filing of any material amendment to any Tax Return with respect to any material amount of Taxes, settlement or compromise of any material Tax liability, or any action to surrender any right to a material Tax refund; or

(xvii) any entry into, amendment, modification or consent to terminate any Material Contract, except in the ordinary course of business consistent with past practice or in accordance with such Material Contract's terms.

Section 3.07 Legal Proceedings. Except as set forth on *Schedule 3.07* of the Company Disclosure Schedule, as of the date of this Agreement, (a) there is no pending or, to the Knowledge of the Company, threatened, material Action, nor are there any investigations, audits or reviews by any Governmental Authority or any arbitrator pending or, to the Knowledge of the Company, threatened, against the Company or any of its Subsidiaries and (b) none of the Company or any of its Subsidiaries is subject to any outstanding Order.

Section 3.08 Compliance With Laws; Permits.

(a) Except as set forth on *Schedule 3.08(a)* of the Company Disclosure Schedule, the Company and its Subsidiaries are in compliance in all material respects with all material laws, statutes, ordinances, codes, rules, regulations, decrees and Orders of Governmental Authorities (collectively, "**Laws**") applicable to the Company or any of its Subsidiaries, and neither the Company nor any of its Subsidiaries has received written notice that the Company or any of it Subsidiaries is not in compliance with material Laws.

(b) Except as set forth on *Schedule 3.08(b)* of the Company Disclosure Schedule and as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) the Company and each of its Subsidiaries hold all licenses, franchises, permits, certificates, approvals and authorizations from Governmental Authorities necessary for the lawful conduct of the Retained Businesses (collectively, "**Permits**"), (ii) the

Company and its Subsidiaries are in compliance in all material respects with the terms of all Permits, (iii) all Permits are in full force and effect, and no event has occurred or is continuing which permits, after notice or lapse of time or both would permit, any modification, revocation, non-renewal or termination of any such Permit and (iv) neither the Company nor any of its Subsidiaries has received written notice that the Company or any of its Subsidiaries is not in compliance with Permits.

Section 3.09 Tax Matters. Except as set forth on *Schedule 3.09* of the Company Disclosure Schedule:

(a) The Company and each of its Subsidiaries has (i) prepared in good faith and duly and timely filed (taking into account any extension of time within which to file) all material Tax Returns required to be filed by any of them and to the Knowledge of the Company all such filed Tax Returns are complete and accurate in all material respects, (ii) paid (or have had paid on their behalf) all material Taxes that are required to be paid by any of them, except with respect to Taxes being contested in good faith or for which adequate reserves have been established or disclosed in the Company Financial Statements, and (iii) made adequate provision (or a provision has been made on their behalf) for the payment of all material Taxes not yet due.

(b) Except as would not result in an increase in Taxes that is material to the Company and its Subsidiaries, there are no audits, examinations, investigations or other proceedings, in each case, pending or threatened in writing, in respect of Taxes or Tax matters relating to the Company or any of its Subsidiaries.

(c) There are no Liens for material Taxes on any asset of the Company or any of its Subsidiaries except for Permitted Encumbrances.

(d) No presently effective waivers or extensions of statutes of limitation with respect to material Taxes have been given with respect to the Company or any of its Subsidiaries for any taxable year.

(e) No power of attorney granted by the Company or any of its Subsidiaries with respect to any Taxes that would permit any Person to bind the Company or any of its Subsidiaries following the Closing is currently in force. None of the Company or any of its Subsidiaries has requested or is the subject of or bound by a ruling from any Tax authority with respect to any Taxes or has prior to the Closing signed a closing or other similar agreement (as described in Section 7121 of the Code) with a Tax Authority that will result in a material adjustment to the Tax liability of the Company or any of its Subsidiaries for any period (or portion thereof) after the Balance Sheet Date.

(f) To the Knowledge of the Company, no claim in writing has ever been made by an authority in a jurisdiction where neither the Company nor any of its Subsidiaries files Tax Returns that it is or may be subject to taxation by that jurisdiction that has not been previously resolved.

(g) The Company and each of its Subsidiaries has withheld and paid all material Taxes required to be withheld and paid in connection with amounts paid or owing to

any employee, independent contractor, stockholder or other third party and have complied in all material respects with all applicable Tax Laws relating to information reporting.

(h) None of the Company or any of its Subsidiaries is liable for material Taxes of any other Person under Treasury Regulations section 1.1502-6 (or any similar provision of state, local or foreign law) as a result of having been a member of a combined, consolidated, affiliated or unitary group or is a party to any Tax sharing agreement or indemnity agreement (other than any agreement (i) by or among the Company or any of its Subsidiaries and their Affiliates or (ii) that will be terminated on or prior to the Closing Date).

(i) Neither the Company nor any of its Subsidiaries has participated in any "listed transaction" as defined under the Treasury Regulations section 1.6011-4.

(j) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, none of the Company or any of its Subsidiaries (i) will be required under existing law as in effect as of the date hereof, to include in a taxable period ending after the Closing Date any taxable income attributable to income that accrued, but was not recognized, in a taxable period (or portion thereof) ending on or before the Closing Date, as a result of the installment method of accounting or the long-term contract method of accounting, or (ii) has agreed to or will be required under existing law as in effect as of the date hereof, to include in a taxable period ending after the Closing Date any adjustment to taxable income as a result of a change in method of accounting under Section 481(a) of the Code or any comparable provision of state, local or foreign law made prior to the Closing Date.

(k) For purposes of this Agreement, (i) "**Tax**" (including, with correlative meaning, the term "**Taxes**") means all federal, state, local, and foreign taxes, and other assessments and governmental charges of a similar nature (whether imposed directly or through withholding), including any interest, additions to Tax, or penalties applicable thereto, imposed by any Tax Authority, (ii) "**Tax Authority**" means the Internal Revenue Service and any other domestic or foreign Governmental Authority responsible for the administration of any Taxes, and (iii) "**Tax Return**" means all federal, state, local, and foreign Tax returns, declarations, statements, reports, schedules, forms, and information returns and any amendments thereto.

Section 3.10 Employee Benefits and Labor Matters.

(a) *Schedule 3.10(a)* of the Company Disclosure Schedule lists each Company Plan. "**Company Plan**" shall mean: (i) any material employee benefit plan within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"); (ii) any material other employee benefit plan, arrangement, or policy, including all bonus, stock option, stock purchase, restricted stock, incentive, deferred compensation, retiree medical or life insurance, supplemental retirement, severance, separation, retirement, pension, profit sharing, savings, health, life insurance, cafeteria plan, flexible spending, dependent care, vacation pay, holiday pay, disability, sick pay, workers' compensation, or education assistance plans, programs or arrangements; and (iii) any material written employment, retention, indemnification, severance, or change-in-control agreement, in each case sponsored, maintained or contributed to, or required to be sponsored, maintained or contributed to, by the Company or

any of its Subsidiaries, or with respect to which the Company or any of its Subsidiaries has any Liability, in each case for the benefit of any current or former employee, officer or director of the Retained Businesses. The Company has made available to Parent, to the extent applicable, correct and complete copies of the following with respect to each Company Plan: (i) the Company Plan (including all amendments and attachments thereto); (ii) the related trust documents; (iii) the insurance contracts or other funding arrangements; (iv) the last three annual report (Form 5500) filed with the Internal Revenue Service, including all schedules and attachments; (v) the most recent determination letter or opinion letter from the Internal Revenue Service; (vi) the most recent summary plan description and any summary of material modification thereto; (vii) the last three annual financial statements; and (viii) the last three actuarial valuation of the Company Plans.

(b) Each Company Plan which is intended to be qualified under Section 401(a) of the Code, and the trust (if any) forming a part thereof, has either received a favorable determination, opinion, notification or advisory letter from the Internal Revenue Service with respect to each such Company Plan as to its qualified status under the Code, or has remaining a period of time under applicable treasury regulations of the Code or Internal Revenue Service pronouncements in which to apply for such a letter and make any amendments necessary to obtain a favorable determination as to the qualified status of each such Company Plan, and, to the Knowledge of the Company, nothing has occurred that would adversely affect the qualification or tax exemption of any such Company Plan or related trust.

(c) *Schedule 3.10(c)* of the Company Disclosure Schedule lists each Company Plan, and each employee benefit plan maintained by any other Person that, together with the Company or any of its Subsidiaries, is treated as a single employer under Section 414 of the Code (each an "**ERISA Affiliate**"), that is subject to Title IV of ERISA or Section 412 or 430 of the Code (a "**Pension Plan**"). None of the Company, its Subsidiaries or any ERISA Affiliate has within the prior six (6) years, sponsored, maintained, contributed to or been required to contribute to any pension plan (within the meaning of Section 3(2) of ERISA) that is a multiemployer plan (within the meaning of Section 3(37) or 4001(a)(3) of ERISA) or any multiple employer pension plan subject to Section 4063 of ERISA.

(d) Except as set forth on *Schedule 3.10(d)* of the Company Disclosure Schedule, as of the date of this Agreement, with respect to each Pension Plan: (i) no liability to the PBGC has been incurred (other than for premiums not yet due); (ii) no notice of intent to terminate any such Pension Plan has been filed with the PBGC or distributed to participants therein and no amendment terminating any such Pension Plan has been adopted; (iii) no proceedings to terminate any such Pension Plan instituted by the PBGC are pending or, to the Knowledge of the Company, are threatened, and no event or condition has occurred which would reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any such Pension Plan; (iv) no such Pension Plan is in "at risk" status, within the meaning of Section 430 of the Code or Section 303 of ERISA; (v) no "reportable event" within the meaning of Section 4043 of ERISA (for which the 30-day notice requirement has not been waived by the PBGC) has occurred within the last twelve months; (vi) no Lien has arisen or would reasonably be expected to arise as a result of actions or inactions under ERISA or the Code on the assets of the Company or its Subsidiaries;

and (vii) there has been no cessation of operations at a facility subject to the provisions of Section 4062(e) of ERISA within the last twelve months.

(e) Except as set forth on *Schedule 3.10(e)* of the Company Disclosure Schedule, (i) each Company Plan is now and has been operated and administered in all material respects in accordance with its terms and the requirements of all applicable Laws, including ERISA and the Code, and (ii) all material contribution and premium payments required to have been paid under or with respect to any Company Plan have been timely paid.

(f) No event has occurred and no condition exists with respect to any employee benefit plan or arrangement, other than a Company Plan, which could subject the Company or its Subsidiaries, directly or indirectly (through an indemnification agreement or otherwise), to Liability under Section 412, 430, 4971 or 4980B of the Code or Title IV of ERISA.

(g) Except as set forth on *Schedule 3.10(g)* of the Company Disclosure Schedule, no Company Plan provides health, life insurance or other welfare benefits to retirees or other terminated employees of the Company or its Subsidiaries, other than continuation coverage required by Section 4980B of the Code or Sections 601-608 of ERISA.

(h) Except as expressly contemplated or required by this Agreement or as set forth on *Schedule 3.10(h)* of the Company Disclosure Schedule, the consummation of the transactions contemplated by this Agreement will not, either alone or in combination with another event, (i) entitle any current or former employee or officer of the Company or its Subsidiaries to severance pay or any other payment from the Retained Businesses, including any "excess parachute payment" within the meaning of Section 280G of the Code, or (ii) accelerate the time of payment or vesting, or increase the amount of compensation due any such employee or officer.

(i) Except as set forth on *Schedule 3.10(i)* of the Company Disclosure Schedule, as may be required by applicable Law, or as otherwise expressly contemplated under this Agreement, neither the Company nor its Subsidiaries have any announced plan or legally binding commitment to create any additional Company Plans which are intended to cover employees or former employees of the Retained Businesses or to amend or modify any existing Company Plan in such a manner as to materially increase the cost of such Company Plan to the Retained Businesses.

(j) The Company has provided to Parent a complete and correct list, as of the date specified therein, of all Retained Business Employees including for each such employee his or her (i) name, (ii) job title, (iii) status as full-time or part-time employee, (iv) the Company or the Subsidiary employing such Business Employee and the location at which such Business Employee is employed, (v) annual base salary or base hourly wage rate, and (vi) prior year bonus and current year bonus potential, if applicable. Such list also lists each Business Employee who is not actively at work for any reason other than vacation, and the nature of his or her leave of absence.

(k) Except as set forth on *Schedule 3.10(k)* of the Company Disclosure Schedule, neither the Company nor any of its Subsidiaries is a party to, or has been party to in

the past three years, any collective bargaining agreement or union contract recognizing any labor organization as the bargaining agent of any Retained Business Employees. The Company has delivered to Parent a complete and correct copy of any collective bargaining agreement applicable to any Retained Business Employees. There is no union organization activity with respect to any Retained Business Employees, pending or, to the Knowledge of the Company, threatened. There are not, and within the last three years there have not been, any strikes, work slowdowns, or other material labor disputes with respect to any Retained Business Employee, nor to the Knowledge of the Company are any strikes, work slowdowns or other material labor disputes pending.

(l) To the Knowledge of the Company, the Company and its Subsidiaries are in material compliance with all material Laws relating to employment, including, but not limited to, all such Laws relating to wages, hours, occupational safety and health, classification of employees, immigration, visa, employment practices, terms and conditions of employment, the Worker Adjustment and Retraining Act of 1988, as amended (the "**WARN Act**") and any similar state or local "mass layoff" or "plant closing" Law. There is no charge or court complaint pending, or, to the Knowledge of the Company, threatened in writing against the Company or any of its Subsidiaries relating to alleged employment discrimination or other employment-related matters, except as set forth on *Schedule 3.07* of the Company Disclosure Schedule.

Section 3.11 Environmental Matters. Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect or as set forth on *Schedule 3.11* of the Company Disclosure Schedule, (a) to the Knowledge of the Company, each of the Company and its Subsidiaries is in compliance with Environmental Laws, (b) neither the Company nor its Subsidiaries have received since January 1, 2009 written notice from any Governmental Authority or third party that remains outstanding alleging that the Company or any of its Subsidiaries in violation of any Environmental Laws or caused a release of a Hazardous Substance, (c) to the Knowledge of the Company, none of the Company or its Subsidiaries has caused any such release of any Hazardous Substance in excess of a reportable and actionable quantity on the Owned Real Property or Leased Real Property which release remains unresolved, and (d) to the Knowledge of the Company, except as reflected or reserved against on the audited consolidated balance sheet of the Company as of December 31, 2011, there are no Liabilities arising under Environmental Laws. This Section 3.11 contains the only representations and warranties of the Company with regard to environmental matters. The Company has paid the premium in full, or will have paid the premium in full as of the Closing Date, for an environmental liability insurance policy attached as *Exhibit D* protecting the Company for ten years from the date of the policy's issuance from claims related to environmental liabilities at the Company's Owned Real Property identified therein (the "**Environmental Insurance Policy**").

Section 3.12 Intellectual Property.

(a) *Schedule 3.12(a)* of the Company Disclosure Schedule sets forth, for the Company Intellectual Property as of the date hereof, a complete and accurate list of all material U.S. and foreign: (i) patents and patent applications; (ii) trademark registrations and applications (including Internet domain name registrations); and (iii) copyright registrations and

applications, specifying as to each, as applicable, the owner of such Company Intellectual Property, the jurisdictions in which such Company Intellectual Property has been registered or in which an application for registration has been filed, and the registration or application numbers. To the Knowledge of the Company, the registrations and applications set forth on *Schedule 3.12(a)* of the Company Disclosure Schedule are in effect and subsisting.

(b) Except as set forth on *Schedule 3.12(b)* of the Company Disclosure Schedule, (i)(A) to the Knowledge of the Company, none of the material Company Intellectual Property nor the conduct of the Retained Businesses, infringes upon or misappropriates or otherwise violates any material Intellectual Property rights or the material confidential and proprietary information of any third party and (B) to the Knowledge of the Company, no such claim or notice has been asserted against the Company or any of its Subsidiaries in writing, except with respect to claims or notices that have been fully resolved, and (ii)(A) to the Knowledge of the Company, no third party is infringing upon or misappropriating or otherwise violating any Company Intellectual Property in any material respect, and (B) as of the date hereof, no such claims are pending or, to the Knowledge of the Company, threatened against any Person by the Company or any of its Subsidiaries.

(c) The Company and its Subsidiaries have used commercially reasonable efforts to protect in all material respects their rights in confidential information and trade secrets related to the Retained Businesses.

(d) The Company and its Subsidiaries are in material compliance with applicable Laws, as well as their own rules, policies, and procedures, relating to privacy, data protection, and the collection and use of personal information.

(e) To the Knowledge of the Company, the Company and each of its Subsidiaries owns all right, title and interest in and to, or has a valid license to use (if required), the material Company Intellectual Property and is entitled to use any such Company Intellectual Property. To the Knowledge of the Company, the Company Intellectual Property includes all material Intellectual Property used or held for use in connection with the operation of the Retained Businesses, and there are no other items of Intellectual Property that are material to the operation of the Related Businesses by the Company and its Subsidiaries or for the continued operation of the Retained Businesses immediately after the Closing in substantially the same manner as operated prior to the Closing.

Section 3.13 Property.

(a) *Schedule 3.13(a)* of the Company Disclosure Schedule sets forth a list of all real property owned by the Company and its Subsidiaries (the "**Owned Real Property**") and all real property with current monthly rental payments in excess of $10,000 leased or subleased or otherwise used or occupied by the Company or any of its Subsidiaries as a tenant, subtenant or licensee under an agreement (the "**Leased Real Property**") as of the date hereof. Except as specified on *Schedule 3.13(a)* of the Company Disclosure Schedule, the Company or a Subsidiary of the Company has good and valid title in fee simple to all of the Owned Real Property, free and clear of all Liens (except in all cases for Permitted Encumbrances). Except as set forth on *Schedule 3.13(a)* of the Company Disclosure Schedule,

the Company or a Subsidiary of the Company has valid leasehold interests in all of the Leased Real Property, free and clear of all Liens (except in all cases for Permitted Encumbrances). All leases under which the Company or any of its Subsidiaries lease the Leased Real Property (collectively, the "**Leases**") (i) are valid and in full force and effect against the Company or one of its Subsidiaries and, to the Knowledge of the Company, the counterparties thereto, in accordance with their respective terms and (ii) to the Knowledge of the Company, there is not, under any of such leases, any existing material default by the Company or any of its Subsidiaries nor, except as set forth on *Schedule 3.13(b)*, do any facts or circumstances exist which with notice or lapse of time or both, would become a material default under any of such leases by the Company or any of its Subsidiaries.

(b) Except as set forth on *Schedule 3.13(b)*, during the 60 days prior to the date of this Agreement, neither the Company nor any of its Subsidiaries has exercised or given any notice of exercise, nor has any landlord or sublandlord under any Lease exercised or has the Company or any of its Subsidiaries received any notice of exercise by a landlord or sublandlord of, any Leased Real Property Option.

(c) Except as set forth on *Schedule 3.13(c)* of the Company Disclosure Schedule, (i) none of the Company or any Subsidiary of the Company has, to the Knowledge of the Company, within the last two (2) years, received written notice of any pending or threatened condemnation or eminent domain proceedings or their local equivalent that would affect any Owned Real Property or Leased Real Property and no such proceedings are currently pending, (ii) the use and occupancy of the Owned Real Property or the Leased Real Property by the Company and the Subsidiaries of the Company, and the conduct of the business thereat does not violate in any material respect any applicable Law or, with respect to the Owned Real Property, any deed restrictions the violation of which would adversely affect the use, value or occupancy of any such property or the conduct of business thereof, and, to the Knowledge of the Company, all necessary occupancy and other certificates and approvals for the occupancy and lawful use thereof have been issued and are in full force and effect, (iii) neither the execution and delivery of this Agreement by the Company nor the consummation or performance by the Company of the transactions contemplated hereby will conflict with, violate or constitute a default (or an event which, with notice or lapse of time or both would become a default) under any of the terms, conditions or provisions of any Lease or give rise to a right of termination, cancellation or modification of any of the Company's obligations under any Lease, (iv) except as would not reasonably be likely to be material to the business and operations conducted at such Owned Real Property or Leased Real Property, there are adequate sanitary and storm sewer, public water, gas, electrical, telephone and other utilities at each Owned Real Property and Leased Real Property, and (v) except as set forth on *Schedule 3.13(c)* of the Company Disclosure Schedule, no Owned Real Property is subject to any lease, sublease or license granting to any other Person any right to the use or occupancy of such Owned Real Property or any part thereof, and, to the Knowledge of the Company, there are no outstanding options, rights of first offer or rights of first refusal to purchase any Owned Real Property or any interest therein.

(d) Notwithstanding the foregoing, Owned Real Property and Leased Real Property shall not include any real property owned by the Company or any of its Subsidiaries that is used or held for use primarily in connection with the Other Freedom

Businesses and that has been or is being transferred or otherwise disposed of in connection with the Disposition Transactions.

Section 3.14 Contracts.

(a) *Schedule 3.14(a)* of the Company Disclosure Schedule sets forth a list of all of the following Contracts to which the Company or any of its Subsidiaries is a party or by which the Company, any of its Subsidiaries or any of their respective properties or assets is bound as of the date of this Agreement (other than Company Plans) (the "**Material Contracts**"):

(i) Contracts with respect to a joint venture, partnership, limited liability or other similar agreement or arrangement with any third parties, including any material Contracts involving a sharing of profits, losses, costs or liabilities, but excluding, for the avoidance of doubt, revenue sharing arrangements that are customary in the industries in which the Company and its Subsidiaries operate and that are entered into in the normal course of business;

(ii) Contracts related to Indebtedness of the Company or its Subsidiaries with annual obligations in excess of $150,000;

(iii) Contracts related to an acquisition, divestiture, merger or similar transaction containing representations, covenants, indemnities or other obligations, including any "earnout" or other deferred or contingent consideration, entered into after January 1, 2009 that individually resulted in, or could reasonably be expected to result in, payments under such Contract in each case in excess of $250,000;

(iv) (A) Contracts related to any guarantee of any Indebtedness of any Person or (B) any guarantee or assumption of other obligations of any third party or reimbursement of any maker of a letter of credit, except for agreements that relate to obligations which do not individually exceed $150,000;

(v) Contracts prohibiting the payment of dividends or distributions in respect of the capital stock of the Company or any of its Subsidiaries, prohibiting the pledging of the capital stock or assets of the Company or any Subsidiary of the Company or prohibiting the issuance of guarantees or pledges by any Subsidiary of the Company;

(vi) Contracts relating to any single or series of related capital expenditures by the Company pursuant to which the Company or any of its Subsidiaries has future financial obligations in excess of $200,000;

(vii) Contracts that contain obligations of the Company or its Subsidiaries of $150,000 or more secured by a Lien on any asset of the Company or any of its Subsidiaries (other than Permitted Encumbrances) or Contracts that relate to any hedging, derivatives or similar contracts or arrangements;

(viii) Contracts providing for any lease or similar arrangement for the use by the Company or its Subsidiaries of personal property involving payments in excess of $200,000 per year;

(ix) collective bargaining agreements;

(x) material Contracts that contain a covenant restricting the ability of the Company or any of its Subsidiaries (or, at any time after consummation of the Closing, Parent or any of its Affiliates) to compete in any business or with any Person or in any geographic area in which the Company or any of its Subsidiaries operate;

(xi) material Contracts that obligate the Company or any Subsidiary of the Company to conduct business on an exclusive basis with any third Person; and

(xii) Contracts between the Company or any of its Subsidiaries, on the one hand, and any stockholder of the Company as of the date of this Agreement, on the other hand.

Notwithstanding the foregoing, Material Contracts shall not include any Contract that primarily relates to the Other Freedom Businesses and that has been or is being transferred or otherwise disposed of in connection with the Disposition Transactions.

(b) (i) Each Material Contract is valid and binding on the Company or one of its Subsidiaries to the extent such Subsidiary is a party thereto, as applicable, and to the Knowledge of the Company, each other party thereto, and is in full force and effect and enforceable in accordance with its terms in all material respects (subject to the Bankruptcy and Equity Exception), (ii) the Company and each of its Subsidiaries, and, to the Knowledge of the Company, any other party thereto, has performed in all material respects all material obligations required to be performed by it under each Material Contract and (iii) except as set forth on *Schedule 3.14(b)* of the Company Disclosure Schedule, neither the Company nor any of its Subsidiaries has received written notice of the existence of any event or condition which constitutes, or, after notice or lapse of time or both, will constitute, a material default on the part of the Company or any of its Subsidiaries under any such Material Contract. A true, correct and complete copy of each Material Contract has been made available by the Company to Parent.

Section 3.15 Insurance. As of the date of this Agreement, all material policies or binders of property, fire, casualty, liability, business interruption, media liability, sprinkler and water damage, workers' compensation, vehicular, directors' and officers' and other forms of insurance held by or on behalf of the Company and its Subsidiaries with respect to the Retained Businesses (collectively, the "**Company Insurance Policies**") (a) are, except for policies that have expired under their terms, in full force and effect in all material respects, and the Company or its Subsidiaries, as applicable, have made all payments required to maintain the Company Insurance Policies in full force and effect, and (b) are, to the Knowledge of the Company, valid and enforceable in accordance with their terms. Prior to the date of this Agreement, the Company has furnished to Parent true and complete copies of all Company Insurance Policies as in effect on the date of this Agreement. Neither the Company nor any of its Subsidiaries has (x) received written notice or, to the Knowledge of the Company, oral notice, of actual or threatened modification, coverage limitation or reduction, premium increase or termination of any Company Insurance Policy, or (y) received written notice of cancellation or non renewal of any Company Insurance Policy, other than in connection with ordinary renewals.

Section 3.16 Bank Accounts. *Schedule 3.16* of the Company Disclosure Schedule sets forth the name of each bank in which the Company or its Subsidiaries has an account or safe deposit box or standby letter of credit, the identifying numbers or symbols thereof and the names of all persons authorized to draw thereon or to have access thereto. *Schedule 3.16* of the Company Disclosure Schedule also sets forth the names and titles of all authorized signatories of the Company and its Subsidiaries for each such account and safe deposit box.

Section 3.17 Interested Party Transactions. Except as set forth on *Schedule 3.17* of the Company Disclosure Schedule, the Company and its Subsidiaries have not, since December 31, 2010, (i) extended or maintained credit, arranged for the extension of credit or renewed an extension of credit in the form of a personal loan to or for any director or executive officer (or equivalent thereof) of the Company or any of its Subsidiaries or (ii) materially modified any term of any such extension or maintenance of credit.

Section 3.18 Brokers and Other Advisors. Except for Moelis & Company, LLC ("**Moelis**"), no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses, in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of the Company or any of its Subsidiaries.

Section 3.19 Title; Condition of Assets.

(a) Except as specified on *Schedule 3.19(a)* of the Company Disclosure Schedule, the Company and each of its Subsidiaries has good and valid title or valid leasehold or license interest in all of the material personal properties and assets (other than the real property, which is address in Section 3.13 hereof) used by such entity in connection with the Retained Businesses in the ordinary course of business consistent with past practice, in each case, free and clear of any Liens, except for Permitted Encumbrances.

(b) Except as specified on *Schedule 3.19(b)* of the Company Disclosure Schedule and as would not reasonably be expected, individually or in the aggregate, to have a Company Material Adverse Effect, the tangible assets (other than the real property, which is addressed in Section 3.13 hereof) and the tangible personal property of the Company and its Subsidiaries used or held for use primarily in connection with the Retained Businesses are in good operating condition and repair in all material respects for the uses to which they are currently employed, ordinary wear and tear excepted.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF PARENT AND MERGER SUB

Except as specifically disclosed in the corresponding schedule of the disclosure schedule delivered by Parent and Merger Sub to the Company simultaneously with the execution of this Agreement (the "**Parent Disclosure Schedule**") (it being understood that any matter disclosed in the Parent Disclosure Schedule shall be deemed disclosed with respect to any schedule of the Parent Disclosure Schedule to which the matter relates to the extent the relevance

to each such schedule is reasonably apparent), Parent and Merger Sub jointly and severally represent and warrant to the Company as follows:

Section 4.01 Organization; Standing. Parent is a limited liability company, duly formed, validly existing and in good standing under the Laws of the State of Delaware and Merger Sub is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of Delaware. Each of Parent and Merger Sub has all requisite power and authority necessary to own or lease all of its properties and to carry on its business as it is now being conducted.

Section 4.02 Authority; Noncontravention.

(a) Each of Parent and Merger Sub has all necessary corporate power and authority to execute and deliver this Agreement and the other Transaction Documents to which any of them is a party and to perform their respective obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by Parent and Merger Sub of this Agreement and the other Transaction Documents to which any of them is a party, and the consummation by Parent and Merger Sub of the transactions contemplated hereby and thereby, have been duly authorized and approved by their respective boards of directors, and Parent, as the sole stockholder of Merger Sub, has adopted this Agreement and approved the consummation of the transactions contemplated hereby, and no other corporate action on the part of Parent and Merger Sub is necessary to authorize and approve the execution, delivery and performance by Parent and Merger Sub of this Agreement and the other Transaction Documents to which any of them is a party and the consummation by them of the transactions contemplated hereby and thereby. This Agreement has been duly executed and delivered by Parent and Merger Sub and, assuming due authorization, execution and delivery hereof and thereof by the Company, constitutes a legal, valid and binding obligation of each of Parent and Merger Sub, enforceable against each of them in accordance with its terms, subject to the Bankruptcy and Equity Exception.

(b) Neither the execution and delivery of this Agreement by Parent or Merger Sub or the other Transaction Documents to which any of them is a party, nor the consummation or performance by Parent or Merger Sub of the transactions contemplated hereby or thereby, nor compliance by Parent or Merger Sub with any of the terms or provisions hereof, will (i) conflict with or violate any provision of the certificate of incorporation, bylaws or similar organizational documents of Parent or Merger Sub or (ii) assuming that the filings referred to in Section 4.03 are made, (A) violate any Law or Order applicable to Parent or Merger Sub, or (B) with or without notice, lapse of time or both, violate, conflict with, result in a breach of any provision of or constitute a default (or an event which, with notice or lapse of time or both would become a default) under any of the terms, conditions or provisions of any Contract to which Parent or Merger Sub is a party, except, in the case of clause (ii)(B), for such violations or defaults as would not reasonably be expected to impair in any material respect the ability of Parent or Merger Sub to perform its obligations hereunder or prevent or materially delay consummation of the transactions contemplated hereby.

(c) The board of directors of Merger Sub, at a meeting duly called and held (or acting by written consent), has (i) approved the execution, delivery and performance by

Merger Sub of this Agreement and the consummation of the transactions contemplated hereby, including the Merger, (ii) determined that it is in the best interests of Merger Sub and its sole stockholder, and declared it advisable, to enter into this Agreement, and (iii) resolved to recommend that the sole stockholder of Merger Sub adopt this Agreement and approve the transactions contemplated hereby, including the Merger.

(d) Parent, in its capacity as sole stockholder of Merger Sub, has adopted this Agreement and approved the transactions contemplated hereby, including the Merger, upon the terms and subject to the conditions set forth herein.

Section 4.03 Governmental Approvals. Except for (a) the filing of the Certificate of Merger with the Secretary of State of the State of Delaware pursuant to the DGCL and (b) filings required under, and compliance with other applicable requirements of, the HSR Act, no consents or approvals of, or filings, declarations or registrations with, any Governmental Authority are necessary for the execution, delivery and performance of this Agreement by Parent and Merger Sub or the consummation by Parent and Merger Sub of the transactions contemplated hereby, other than such other consents, approvals, filings, declarations or registrations that, if not obtained, made or given, would not reasonably be expected to impair in any material respect the ability of Parent or Merger Sub to perform its obligations hereunder or prevent or materially delay consummation of the transactions contemplated hereby.

Section 4.04 Litigation. As of the date of this Agreement, there are no pending or, to the Knowledge of Parent, threatened Actions, nor are there, to the Knowledge of Parent, any Orders, investigations, audits, or reviews by any Governmental Authority or any arbitrator pending or, to the Knowledge of Parent, threatened against Parent or any of its Subsidiaries which, individually or in the aggregate, would be reasonably likely to prevent or materially delay or materially impede the ability of Parent or Merger Sub to consummate the Merger or the other transactions contemplated by this Agreement..

Section 4.05 Ownership and Operations of Merger Sub. The authorized capital stock of Merger Sub consists solely of 1,000 shares of common stock, par value $.0001 per share, of which 1,000 shares of common stock are validly issued and outstanding as of the date of this Agreement. All of the issued and outstanding capital stock of Merger Sub is, and at the Effective Time will be, owned by Parent or a direct or indirect wholly owned Subsidiary of Parent. Merger Sub has not conducted any business prior to the date hereof and has no, and prior to the Effective Time will have no, assets, liabilities or obligations of any nature, other than as may be incident to its formation or otherwise as may arise or exist in connection with its entering into this Agreement and the other Transaction Documents to which it is a party and the consummation of the Merger and the other transactions and agreements contemplated hereby and thereby.

Section 4.06 Financing. Parent contemplates securing equity financing (the "**Equity Financing**") and debt financing (the "**Debt Financing**" and, together with the Equity Financing, the "**Financings**") with respect to the transactions contemplated hereby in an aggregate amount to provide Parent with funding at the Closing sufficient to consummate the transactions contemplated by this Agreement upon the terms contemplated hereby, including the Merger, and to satisfy all of Parent's and Merger Sub's obligations under this Agreement,

including the payment of the Base Merger Consideration and the payment of all related fees and expenses reasonably expected to be incurred by Parent in connection with such transactions. As of the date hereof, subject to the satisfaction or waiver of the conditions contained in Article 6 of the Agreement, Parent has no reason to believe that the Financings will not be available to Parent on the Closing Date.

Section 4.07 Access to Information; Non-Reliance on Company Estimates, Projections, Forecasts, Forward-Looking Statements and Business Plans. Parent and Merger Sub each acknowledges and agrees that it (a) has had an opportunity to discuss the business of the Company and its Subsidiaries with the management of the Company, (b) has had reasonable access to the books and records of the Company and its Subsidiaries for purposes of the transactions contemplated hereby, (c) has been afforded the opportunity to ask questions of and receive answers from officers of the Company, and (d) has conducted its own independent investigation of the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby, and has not relied on any representation, warranty or other statement by any Person on behalf of the Company or any of its Subsidiaries, other than the representations and warranties of the Company expressly contained in Article 3 of this Agreement, and that all other representations and warranties are specifically disclaimed. In connection with its due diligence investigation of the Company and its Subsidiaries, each of Parent and Merger Sub has received and may continue to receive from the Company certain estimates, projections, forecasts and/or other forward-looking information, as well as certain business plan and cost-related information, regarding the Company, its Subsidiaries and their respective businesses and operations. Parent and Merger Sub hereby acknowledge that there are uncertainties inherent in attempting to make such estimates, projections, forecasts and other forward-looking statements, as well as in such business plans and cost-related plans, with which Parent and Merger Sub are familiar, that Parent and Merger Sub are taking full responsibility for making their own evaluation of the adequacy and accuracy of all estimates, projections, forecasts and other forward-looking information (as applicable), as well as such business plans and cost-related plans, so furnished to them (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, forward-looking information, business plans or cost-related plans), and that Parent and Merger Sub will have no claim against the Company or any of its Subsidiaries, or any of their respective stockholders, partners, members, managers, directors, officers, employees, Affiliates, advisors, agents or representatives, with respect thereto, and with respect to the Company only and subject to Section 7.02, unless and then only to the extent that any such information is expressly included in a representation or warranty contained in Article 3. Accordingly, Parent and Merger Sub hereby acknowledge that none of the Company nor any of its Subsidiaries, nor any of their respective stockholders, partners, members, managers, directors, officers, employees, Affiliates, advisors, agents or representatives, has made or is making any representation or warranty with respect to any such estimates, projections, forecasts, forward-looking statements, business plans or cost-related plans (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, forward-looking statements, business plans or cost-related plans), unless and then only to the extent that any such information is expressly included in a representation or warranty contained in Article 3.

Section 4.08 Brokers and Other Advisors. Except for Dirks, Van Essen & Murray no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the

transactions contemplated hereby based upon arrangements made by or on behalf of Parent or any of its Subsidiaries for which the Company will have any liability prior to the Closing.

ARTICLE 5

ADDITIONAL COVENANTS AND AGREEMENTS

Section 5.01 Written Consent; Information Statement; Release of Deposit Escrow. As soon as reasonably practicable, but in any event within ten (10) Business Days, following the execution and delivery of this Agreement by the parties hereto, the Company shall, in accordance with the DGCL, the Certificate of Incorporation and the Bylaws, take all action necessary to seek and obtain the written consent adopting this Agreement and approving the transactions contemplated hereby and constituting the Company Stockholder Approval (the "**Written Consent**") from stockholders holding at least a majority of the outstanding shares of Company Common Stock, voting together as a single class, entitled to vote on the adoption of this Agreement and approval of the transaction contemplated hereby. In the event that there are any holders of Company Common Stock who do not execute the Written Consent, the Company shall prepare and circulate to such non-consenting holders an information statement (the "**Information Statement**") after the Written Consent shall have been delivered to Parent. The Information Statement shall include a description of any dissenters' rights of holders of Company Common Stock available under Section 262 of the DGCL in connection with the Merger and shall include any other disclosures with respect to dissenters' rights required by Delaware Law. The Information Statement shall, in accordance with the requirements of Section 228(e) of the DGCL, notify any holder of Company Common Stock who did not execute the Written Consent of the corporate action taken by those holders who did execute the Written Consent.

Section 5.02 Conduct of Business Prior to Closing. Except (a) as contemplated or required by this Agreement or any Disposition Agreement, (b) as set forth on *Schedule 5.02* of the Company Disclosure Schedule, (c) as required by applicable Law or by a Governmental Authority of competent jurisdiction or (d) with the prior written consent of Parent, which consent shall not be unreasonably withheld, delayed or conditioned, during the period from the date of this Agreement until the earlier of the Effective Time or the date, if any, on which this Agreement is terminated in accordance with Article 7 (the "**Interim Period**"), (x) the Company shall conduct the Retained Businesses and shall cause its Subsidiaries to conduct the Retained Businesses in all material respects in the ordinary course of business consistent with past practice and (y) the Company shall, and shall cause its Subsidiaries to, use commercially reasonable efforts to (1) maintain and preserve intact the Retained Businesses, including the assets and present business organizations of the Retained Businesses and (2) maintain and preserve intact their current relationships with customers, suppliers, distributors and other business relationships in respect of the Retained Businesses.

Section 5.03 Restrictions on the Conduct of Business Prior to Closing. Without limiting the generality of Section 5.02 and except (a) as contemplated or required by this Agreement or any Disposition Agreement, (b) as set forth on *Schedule 5.03* of the Company Disclosure Schedule, (c) as required by applicable Law or by a Governmental Authority of competent jurisdiction or (d) with the prior written consent of Parent, which consent shall not be

unreasonably withheld, delayed or conditioned during the Interim Period, the Company shall not, and shall cause its Subsidiaries not to:

(a) (i) authorize for issuance, issue, sell, grant or subject to any Lien any shares of its capital stock or other ownership interests, or any securities or rights convertible into, exchangeable or exercisable for, or evidencing the right to subscribe for any shares of its capital stock or other ownership interests, or any rights, warrants or options to purchase any shares of its capital stock or other ownership interests; *provided*, *however*, that the Company may issue shares of Company Common Stock as required to be issued upon exercise or settlement of Warrants or of Restricted Stock Units outstanding on the date hereof but not in excess of 2,636,862 or 513,012, respectively, or (ii) redeem, purchase or otherwise acquire any of its outstanding shares of capital stock, or any rights, warrants or options to acquire any shares of its capital stock, except in connection with withholding to satisfy tax obligations with respect to Restricted Stock Units and Warrants, or acquisitions in connection with the vesting or forfeiture of equity awards, in each case, outstanding on the date hereof in accordance with the terms of the applicable Company Stock Plan in effect on the date hereof;

(b) declare, set aside for payment or pay any dividend on, or make any other distribution in respect of, any shares of its capital stock or other ownership interests;

(c) split, combine, subdivide or reclassify any shares of its capital stock or other ownership interests;

(d) (i) incur, issue, assume, guarantee or otherwise become liable for any Indebtedness (excluding any letters of credit issued in the ordinary course of business) or any debt securities, other than intercompany indebtedness that will be repaid at or prior to the Closing or (ii) guarantee or otherwise become liable for any Liabilities of any third Person;

(e) sell, lease, license, mortgage or otherwise subject to any Lien (other than Permitted Encumbrances) or otherwise dispose of any of its properties, rights or assets (including the capital stock of Subsidiaries) except (i) sales and licenses of products and services of Company and its Subsidiaries in the ordinary course of business consistent with past practice, (ii) pursuant to any Contracts or Leases in force on the date of this Agreement, (iii) dispositions of obsolete or worthless assets, (iv) transfers among the Company and its wholly owned Subsidiaries, or (v) cash contributions to the Pension Plans in the amount set forth in Section 5.19, *plus* the aggregate amount of Excess Required Contributions, if any;

(f) enter into or make any loans, advances or capital contributions to, or investments in, any Person (other than advances to employees in accordance with the Company's existing policies);

(g) make capital expenditures (i) other than those set forth on *Schedule 5.03(g)* of the Company Disclosure Schedule or (ii) in excess of $250,000 in the aggregate;

(h) make any acquisitions (including by merger, consolidation or acquisition of stock or assets or any other business combination) of (i) any corporation, partnership, other business organization or any division thereof or equity interests therein or a

substantial portion of the assets thereof for consideration (including any potential "earn-outs" or other contingent or deferred consideration), or (ii) any real property;

(i) commence, pay, discharge, settle or compromise any pending or threatened Action which (i) requires payment to or by the Company or any Subsidiary (exclusive of attorney's fees) in excess of $300,000 in any single instance or in excess of $1,000,000 in the aggregate that is not covered by insurance, (ii) is by securities holders of the Company or any other Person and relates to transactions contemplated hereby or (iii) imposes restrictions on the operations of the Company or its Subsidiaries;

(j) except as otherwise required by applicable Law or the terms and conditions of any Company Plan or other agreement in effect immediately prior to the date of this Agreement, (i) increase the compensation of any Retained Business Employee, (ii) grant or pay any severance or termination pay to, or increase in any manner the severance or termination pay of, any Retained Business Employee, (iii) grant any equity or equity-based compensation, (iv) establish, adopt, enter into or terminate, or amend, any collective bargaining agreement, Company Plan or any other plan, agreement, program, policy, trust, fund or other arrangement that would be a Company Plan if it were in existence as of the date of this Agreement, other than in the ordinary course of business consistent with past practice; *provided*, *however*, that the Company may terminate, liquidate and distribute the Freedom Communications, Inc. Non-Qualified Deferred Contribution Plan and the Freedom Communications, Inc. Excess Benefit Plan in connection with the transactions contemplated by this Agreement and the consummation of the Disposition Transactions, or (v) without prior consultation with Parent, hire, promote, demote or otherwise change the employment status (*e.g.*, part-time or full-time), title or other material term or material condition of employment of any employee of the Company or its Subsidiaries who is (or would become after such hiring, promotion, demotion or change) in the position of publisher of a Retained Business or corporate vice-president;

(k) enter into any final agreement in bargaining with any union representing any Retained Business Employee without notice to, consultation with and agreement by Parent;

(l) change in any material respect any financial or tax accounting methods, principles or practices (or change an annual accounting period), except as may be required under GAAP or by applicable Law;

(m) amend the certificate of incorporation, bylaws or other organizational documents of the Company or any of its Subsidiaries;

(n) make or change any material Tax election, file any material amendment to any Tax Return with respect to any material amount of Taxes, settle or compromise any material Tax liability, agree to any extension or waiver of the statute of limitations with respect to the assessment or determination of a material amount of Taxes, enter into any material closing agreement with respect to any Tax or take any action to surrender any right to claim a material Tax refund;

(o) adopt a plan or agreement of complete or partial liquidation or dissolution, merger, consolidation, restructuring, recapitalization or other reorganization of the Company or any of the Company's Subsidiaries;

(p) transfer or dispose of or permit to lapse any right to the use of any material Company Intellectual Property, or dispose of or disclose (except as necessary and in the ordinary course of business consistent with past practice) to any Person, other than representatives of Parent, any material trade secret, formula, process or know-how in respect of the Retained Businesses that is not a matter of public knowledge prior to such disclosure;

(q) change or modify in any material respect existing inventory management or credit and collection policies, procedures and practices with respect to accounts receivable, in each case, as such policies, procedures and practices relate to the Retained Businesses;

(r) enter into, amend, modify or consent to the termination of any Material Contract, except in the ordinary course of business consistent with past practice or in accordance with its terms;

(s) fail to exercise any Leased Real Property Options which by their terms would otherwise expire; *provided* that if the terms and conditions of such leases as so extended would be materially different than the terms or conditions currently in effect, the Company or its Subsidiary, as the case may be, shall not exercise such rights without Parent's prior written consent; or

(t) agree in writing to take any of the foregoing actions.

Section 5.04 No Solicitation; Change in Recommendation.

(a) The Company and its Subsidiaries shall, and shall direct their respective Representatives to, cease and cause to be terminated any discussions or negotiations with any Person conducted heretofore with respect to a Takeover Proposal. Except as otherwise expressly permitted by this Section 5.04, the Company and its Subsidiaries shall not, and shall direct their Representatives not to, directly or indirectly (A) initiate, solicit or encourage (including by way of furnishing non-public information), or take any other action to facilitate, any inquiries regarding, or the making of any proposal or offer (including any proposal or offer to the Company's stockholders) that constitutes, or could reasonably be expected to result in, a Takeover Proposal, (B) engage in, continue or otherwise participate in any discussions or negotiations regarding a Takeover Proposal, (C) agree to, approve, endorse, recommend or consummate a Takeover Proposal, (D) enter into any Company Acquisition Agreement, (E) take any action to approve a third party becoming an "interested stockholder," or to approve any transaction, for purpose of Section 203 of the DGCL or (F) resolve, propose or agree, or authorize or permit any Representative, to do any of the foregoing. The Company acknowledges and agrees that doing any of the foregoing by any Representative of the Company or any of its Subsidiaries shall be deemed to be a breach by the Company of this Section 5.04(a). The Company shall not waive, amend or grant a release under any standstill agreements. The Company shall promptly request each Person that has heretofore executed a confidentiality

agreement in connection with such Person's consideration of acquiring the stock or assets (whether by merger, acquisition of stock or assets or otherwise) of the Company or any of its Subsidiaries, to return (or, if permitted by the applicable confidentiality agreement, destroy) all information required to be returned (or, if applicable, destroyed) by such Person under the terms of the applicable confidentiality agreement and, if requested by Parent, to enforce such Person's obligation to do so.

(b) Notwithstanding anything to the contrary contained in Section 5.04(a), but subject to the Company's compliance in all material respects with the other provisions of this Section 5.04, if the board of directors of the Company receives an unsolicited, written bona fide Takeover Proposal from a Person, that did not arise from a breach of this Section 5.04, after the date of this Agreement and prior to the date the Company obtains the Company Stockholder Approval that the board of directors of the Company (or a committee thereof) determines constitutes or could reasonably be expected to result in a Superior Proposal, then, prior to obtaining the Company Stockholder Approval, the Company may (i) furnish pursuant to an Acceptable Confidentiality Agreement any information with respect to the Company and its Subsidiaries to the Person making such Takeover Proposal, *provided* that any such information must be provided to Parent simultaneously with its provision to such Person to the extent reasonably practicable and not previously made available to Parent, and (ii) participate in discussions and negotiations with such Person regarding a Takeover Proposal if, but only if, prior to taking the actions described in either of clause (i) or (ii), the board of directors of the Company (or a committee thereof) (A) after receiving advice from the Company's outside legal counsel and an independent financial advisor of nationally recognized reputation, determines in good faith that the failure to take such action would be inconsistent with its fiduciary duties to the Company and its stockholders under applicable Law and (B) obtains from such Person an Acceptable Confidentiality Agreement and, substantially simultaneously with its execution, delivers to Parent a copy of such Acceptable Confidentiality Agreement. For the purposes of this Agreement, "**Acceptable Confidentiality Agreement**" means any confidentiality agreement entered into after the date of this Agreement that contains confidentiality and standstill provisions that are not materially less favorable in the aggregate to the Company than those contained in the Confidentiality Agreement (as defined herein).

(c) The Company shall promptly (and in any event within one (1) Business Day after receipt by the Company or any of its Subsidiaries or any of their respective Representatives), notify Parent of the receipt of any Takeover Proposal or any inquiries relating to a Takeover Proposal or any request for information from, or any negotiations sought to be initiated or continued with, either the Company or its Representatives concerning a Takeover Proposal. The Company's notice shall include (i) a copy of any written Takeover Proposal and any other documents provided to the Company or any of its Subsidiaries with respect to such Takeover Proposal or (ii) in respect of any Takeover Proposal, any inquiry relating to a Takeover Proposal or any request for information relating to a Takeover Proposal not made in writing, a written summary of the material terms of such Takeover Proposal, inquiry or request, including the identity of the Person or group of Persons making the Takeover Proposal, inquiry or request. The Company shall keep Parent reasonably informed on a prompt basis of the status or developments regarding any Takeover Proposal, inquiry or request, including any discussions with respect to or amendments or proposed amendments thereto. Other than a Company Acquisition Agreement entered into in accordance with this Agreement, none of the Company or

any of its Subsidiaries shall, after the date of this Agreement, enter into any agreement, including an Acceptable Confidentiality Agreement, that would prohibit it from satisfying its obligations under this Agreement or grant any Person exclusive rights to negotiate with the Company. The Company shall provide Parent with at least forty-eight (48) hours prior written notice of any meeting of the board of directors of the Company (or a committee thereof) at which the board of directors of the Company (or a committee thereof) is reasonably expected to consider any proposal, inquiry, offer or request with respect thereto (or any lesser advance notice otherwise provided to members of the board of directors of the Company (or a committee thereof) in respect of such meeting).

(d) Except as expressly permitted by Section 5.04(e) and subject to Section 5.04(f), the board of directors of the Company (or a committee thereof) shall not (i) (A) change, qualify, withdraw, modify or fail to make, or publicly propose to change, qualify, withdraw or modify, in a manner adverse to Parent, the Company Board Recommendation, (B) make any public statement or take any public action inconsistent with the Company Board Recommendation or (C) approve or recommend, or publicly propose to approve or recommend to the stockholders of the Company a Takeover Proposal (any action described in this clause (i) being referred to as a "**Company Adverse Recommendation Change**") or (ii) authorize the Company or any of its Subsidiaries to enter into any letter of intent, term sheet, merger, acquisition or other agreement or arrangement with respect to, or which may reasonably be expected to lead to or otherwise further, any Takeover Proposal (other than an Acceptable Confidentiality Agreement permitted under Section 5.04(b)) (a "**Company Acquisition Agreement**").

(e) Notwithstanding anything to the contrary herein, but subject to the provisions of Section 5.04(f), prior to obtaining the Company Stockholder Approval, the board of directors of the Company (or a committee thereof) may make a Company Adverse Recommendation Change (i) if the board of directors of the Company receives an unsolicited, written bona fide Takeover Proposal that did not arise or result from any breach of this Section 5.04 and that has not been withdrawn that the board of directors of the Company (or a committee thereof), after receiving the advice of independent financial advisors of nationally recognized reputation and outside legal counsel, determines in good faith (A) constitutes a Superior Proposal and (B) that the failure to take such action would be inconsistent with its fiduciary duties under applicable Law; *provided*, *however*, that the Company shall not enter into a Company Acquisition Agreement unless this Agreement shall have been terminated by the Company in accordance with Section 7.01(d)(ii); or (ii) other than in response to a Takeover Proposal, if the board of directors of the Company (or a committee thereof), after receiving the advice of outside legal counsel and an independent financial advisor of nationally recognized reputation, determines in good faith that the failure to take such action would reasonably be likely to be inconsistent with its fiduciary duties under applicable Law.

(f) The Company shall not be entitled to effect a Company Adverse Recommendation Change with respect to a Superior Proposal and the Company shall not enter into a Company Acquisition Agreement unless (i) the Company has complied in all material respects with this Section 5.04, (ii) the Company has provided written notice (a "**Notice of Superior Proposal**") to Parent that the Company intends to take such action and describing the material terms and conditions of the Superior Proposal or other event that is the basis of such

action, including, if applicable, with such Notice of Superior Proposal a copy of the relevant proposed transaction agreements with the party making such Superior Proposal and other material documents, including any equity and debt commitment letters and any other material documents related to the financing of such Superior Proposal, and (iii) following the end of the three (3) Business Day period following Parent's receipt of the Notice of Superior Proposal, the board of directors of the Company shall have determined in good faith, taking into account any changes to the terms of this Agreement proposed by Parent to the Company in response to the Notice of Superior Proposal or otherwise (the "**Revised Transaction Proposal**"), after having received the advice of an independent financial advisor of internationally recognized reputation and outside counsel, that the Revised Transaction Proposal, if any, is not at least as favorable to the Company's stockholders as such Superior Proposal or other event giving rise to a Company Adverse Recommendation Change, *provided* that during any such three (3) Business Day period (or any extension thereof), the Company shall negotiate in good faith with Parent (to the extent Parent desires to negotiate) regarding any Revised Transaction Proposal. Any substantive amendment to the terms of such Superior Proposal shall require a new Notice of Superior Proposal and the Company shall be required to comply again with the requirements of this Section 5.04(f) (*provided, however,* that references to the three (3) Business Day period above shall be deemed to be references to a two (2) Business Day period).

(g) Nothing in this Section 5.04 shall prohibit the board of directors of the Company (or a committee thereof) from taking and disclosing to the stockholders of the Company a position on any tender or exchange offer, if the board of directors of the Company (or a committee thereof) determines, after consultation with outside legal counsel, that failure to so disclose such position would constitute a violation of applicable Law; *provided*, *however*, that the board of directors of the Company (or a committee thereof) shall not recommend that the stockholders of the Company tender their shares in connection with any tender or exchange offer (or otherwise approve or recommend any Takeover Proposal) or effect a Company Adverse Recommendation Change, unless in each case the applicable requirements of Section 5.04(e) shall have been satisfied. In addition, it is understood and agreed that, for purposes of this Agreement (including Article 7), a factually accurate public statement by the Company that describes the Company's receipt of a Takeover Proposal and the operation of this Agreement with respect thereto, or any "stop, look and listen" communication or any similar communication to the stockholders of the Company, shall not constitute a Company Adverse Recommendation Change or an approval or recommendation with respect to any Takeover Proposal.

(h) As used in this Agreement, "**Takeover Proposal**" shall mean any proposal or offer from any Person or group (as defined under Section 13(d) of the Securities Exchange Act of 1934, as amended) (other than Parent and its Subsidiaries) relating to, in a single transaction or series of related transactions, any (i) acquisition of assets of the Company and its Subsidiaries (including securities of Subsidiaries) equal to twenty percent (20%) or more of the Company's consolidated assets or to which twenty percent (20%) or more of the Company's revenues or earnings on a consolidated basis are attributable, (ii) acquisition of twenty percent (20%) or more of any class of Company Common Stock or other equity securities of the Company, (iii) tender offer or exchange offer that, if consummated, would result in any Person or group beneficially owning twenty percent (20%) or more of any class of Company Common Stock or other equity securities of the Company, or (iv) merger, consolidation, share

exchange, business combination, recapitalization, liquidation, dissolution or similar transaction involving the Company.

(i) As used in this Agreement, "**Superior Proposal**" shall mean any unsolicited, written bona fide Takeover Proposal on terms which the board of directors of the Company determines in good faith, after having received the advice of the Company's outside legal counsel and independent financial advisors of nationally recognized reputation, to be more favorable, from a financial point of view, to the holders of Company Common Stock than the Merger, taking into account all of the terms and conditions of such proposal (including all legal and regulatory aspects of such proposal, including the likelihood and timing of consummation thereof) and this Agreement (including any Revised Transaction Proposal); *provided*, *however*, that for purposes of the definition of "Superior Proposal," the references to "twenty percent (20%)" in the definition of Takeover Proposal shall be deemed to be references to "fifty percent (50%)." For purposes of this Agreement, Moelis shall be deemed to be an independent financial advisor of nationally recognized reputation.

(j) Notwithstanding anything to the contrary contained in Section 5.04(a), but subject to the Company's compliance in all material respects with the other provisions of this Section 5.04, (i) upon receipt by the Company of a Takeover Proposal from a Person, the Company and its Representatives may contact such Person solely in order to (x) clarify and understand the terms and conditions of any Takeover Proposal made by such Person so as to determine whether such Takeover Proposal constitutes or could reasonably be expected to result in a Superior Proposal and (y) notify such Person of the provisions of this Section 5.04 and provide a copy thereof to such Person, and (ii) upon inquiry from any Person with respect to making a Takeover Proposal, the Company and its Representatives may inform such Person of the provisions of this Section 5.04 and provide a copy thereof to such Person.

(k) Notwithstanding anything to the contrary contained in this Section 5.04 or elsewhere in this Agreement, the provisions of this Section 5.04 shall not apply to the Other Freedom Businesses.

Section 5.05 Commercially Reasonable Efforts.

(a) Subject to the terms and conditions of this Agreement, each of the parties hereto shall cooperate with the other parties and use (and shall cause their respective Subsidiaries to use) their respective commercially reasonable efforts to promptly (i) take, or cause to be taken, all actions, and do, or cause to be done, all things, necessary, proper or advisable to cause the conditions to Closing set forth in Article 6 to be satisfied as promptly as practicable and to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated hereby, including preparing and filing promptly and fully all documentation to effect all necessary filings, notices, petitions, statements, registrations, submissions of information, applications and other documents (including any required or recommended filings under applicable Antitrust Laws (as defined below)), and (ii) obtain all approvals, consents, registrations, permits, authorizations and other confirmations from any Governmental Authority or third party necessary, proper or advisable in connection with the transactions contemplated hereby; *provided*, *however*, that in obtaining consent or approval from any Person (other than a Governmental Authority) with respect to the transactions contemplated

hereby, (A) without the prior written consent of Parent, which shall not be unreasonably withheld, delayed or conditioned, neither the Company nor any of its Subsidiaries shall pay or commit to pay any amount to any Person or incur any Liability or modify any Contract and (B) neither Parent nor Merger Sub shall be required to pay or commit to pay any amount or incur any Liability. For purposes hereof, "**Antitrust Laws**" means the Sherman Act, as amended, the Clayton Act, as amended, the HSR Act, the Federal Trade Commission Act, as amended, and all other applicable Laws issued by a Governmental Authority that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

(b) In furtherance and not in limitation of the foregoing, to the extent required by applicable Antitrust Laws, each party hereto agrees to make an appropriate filing of a Notification and Report Form pursuant to the HSR Act with respect to the transactions contemplated hereby as promptly as practicable and in any event within three (3) Business Days from the date hereof, or such other time as mutually agreed to by the parties, and to supply as promptly as practicable any additional information and documentary material that may be requested pursuant to the HSR Act and use its commercially reasonable efforts to take, or cause to be taken, all other actions consistent with this Section 5.05 necessary to cause the expiration or termination of the applicable waiting periods under the HSR Act (including any extensions thereof) as soon as practicable.

(c) Each of the parties hereto shall use its commercially reasonable efforts to cooperate in all respects with each other in connection with any filing or submission with a Governmental Authority in connection with the transactions contemplated hereby and in connection with any investigation or other inquiry by or before a Governmental Authority relating to the transactions contemplated hereby, including any proceeding initiated by a private party. Each of the Company and Parent agrees it shall (i) to the extent permitted by applicable Law, permit counsel for Parent and the Company, respectively, reasonable opportunity to review in advance, and shall consider in good faith the views of such other party in connection with, any proposed written communication to any Governmental Authority; (ii) consult and cooperate with Parent and the Company, respectively, in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of any of the parties hereto in connection with any proceedings by or before a Governmental Authority relating to the transactions contemplated hereby (including any proceedings under or relating to the HSR Act or other Antitrust Laws); and (iii) not participate in any substantive meeting or discussion, either in person or by telephone, with any Governmental Authority in connection with the transaction contemplated by this Agreement unless it consults with the Company or Parent, as the case may be, in advance and, to the extent not prohibited by such Governmental Authority, gives the Company or Parent, as the case may be, or their respective counsel, the opportunity to attend and participate.

(d) In furtherance and not in limitation of the covenants of the parties contained in this Section 5.05, each of the parties hereto shall use its commercially reasonable efforts to resolve such objections, if any, as may be asserted by a Governmental Authority with respect to the application of Antitrust Laws to the transactions contemplated hereby. Without limiting any other provision hereof, Parent and the Company shall each use its commercially reasonable efforts to (i) avoid the entry of, or to have vacated or terminated, any decree, decision,

order or judgment that would restrain, prevent or delay the consummation of the transactions contemplated hereby, on or before the Termination Date, including by defending through litigation on the merits any claim asserted in any court by any Person, and (ii) avoid or eliminate each and every impediment under any Antitrust Law that may be asserted by any Governmental Authority with respect to the transactions contemplated hereby so as to enable the consummation of the transactions contemplated hereby to occur as soon as reasonably possible (and in any event no later than the Termination Date).

Section 5.06 Public Announcements. The initial press release with respect to the execution of this Agreement shall be a joint press release to be reasonably agreed upon by Parent and the Company. Except with respect to any Company Adverse Recommendation Change or any action taken pursuant thereto in accordance with Section 5.04 and Article 6, so long as this Agreement is in effect, neither the Company nor Parent shall issue or cause the publication of any press release or other public announcement (to the extent not previously issued or made in accordance with this Agreement) with respect to the Merger, this Agreement or the other transactions contemplated hereby without the prior written consent of the other party (which consent shall not be unreasonably withheld, delayed or conditioned), except as may be required by Law (in which case such party shall not issue or cause the publication of such press release or other public announcement without prior consultation with the other party).

Section 5.07 Access to Information; Confidentiality. During the Interim Period, subject to applicable Laws relating to the exchange of information and to the extent permitted by applicable Contracts, (a) the Company shall afford to Parent and Parent's Representatives reasonable access during normal business hours to the Company's corporate officers, key employees, properties, books, Contracts and records (which access shall not include access to conduct environmental investigations or assessments without the prior written consent of the Company), and (b) the Company shall furnish promptly to Parent such information concerning its business, personnel, assets, liabilities and properties as Parent may reasonably request; *provided*, *however*, that Parent and its Representatives shall conduct any such activities in such a manner as not to interfere unreasonably with the business or operations of the Company and its Subsidiaries and all requests for access shall be directed only to the individual or individuals designated by the Company in writing; *provided*, *further*, *however*, that the Company shall not be obligated to provide such access or information if the Company determines, in its reasonable judgment, that doing so would violate applicable Law or any Contract or obligation of confidentiality owing to a third party, jeopardize the protection of an attorney-client privilege or expose the Company or its Subsidiaries to liability for disclosure of personal information. Until the Effective Time, the information provided will be subject to the terms of that certain letter agreement, dated as of May 23, 2012, by and between the Company and Parent (as it may be amended from time to time, the "**Confidentiality Agreement**"), and, without limiting the generality of the foregoing, Parent shall not, and shall cause its Representatives not to, use such information for any purpose unrelated to the consummation of the transactions contemplated hereby.

Section 5.08 Notification of Certain Matters. During the Interim Period, the Company shall give prompt notice to Parent, and Parent shall give prompt notice to the Company, of (a) any notice or other communication received by such party from any Governmental Authority in connection with the transactions contemplated hereby or from any Person alleging

that the consent of such Person is or may be required in connection with the transactions contemplated hereby, (b) any actions, suits, claims, investigations or proceedings commenced or, to the Knowledge of such party, threatened against, relating to or involving or otherwise affecting such party or any of its Subsidiaries which relate to the transactions contemplated hereby, (c) the occurrence of any event that would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (d) the occurrence of any event or the existence of any circumstance that would reasonably be expected to result in the failure to satisfy a condition specified in Article 6 hereof and (e) any notice or other communication received by such party relating to any default under or breach of any Material Contract to which the Company or any of its Subsidiaries is a party; *provided*, *however*, that no such notification shall be deemed to cure any breach by either party of any representation, warranty, covenant or agreement set forth in this Agreement.

Section 5.09 Indemnification and Insurance.

(a) From and after the Effective Time, Parent shall, and shall cause the Surviving Corporation to, (i) indemnify and hold harmless each individual who at the Effective Time is, or at any time prior to the Effective Time was, a director, officer or employee of the Company or of a Subsidiary of the Company (each, an "**Indemnitee**" and, collectively, the "**Indemnitees**") with respect to all claims, liabilities, losses, damages, judgments, fines, penalties, costs (including amounts paid in settlement or compromise) and reasonable expenses (including reasonable fees and expenses of legal counsel) in connection with any Action (whether civil, criminal, administrative or investigative), whenever asserted, based on or arising out of, in whole or in part, the fact that an Indemnitee was a director, officer or employee of the Company or such Subsidiary or acts or omissions by an Indemnitee in the Indemnitee's capacity as a director, officer, employee or agent of the Company or such Subsidiary or taken at the request of the Company or such Subsidiary (including in connection with serving at the request of the Company or such Subsidiary as a director, officer, employee, agent, trustee or fiduciary of another Person (including any employee benefit plan)), in each case, at, or at any time prior to, the Effective Time (including any Action relating in whole or in part to this Agreement and the transactions contemplated hereby, including the Merger), to the fullest extent that the Company would be permitted under applicable Law to do so, and (ii) assume all obligations of the Company and such Subsidiaries to the Indemnitees in respect of indemnification and exculpation from Liabilities for acts or omissions occurring at or prior to the Effective Time as provided in the charter, bylaws and similar organizational documents of the Company and its Subsidiaries as currently in effect and the indemnification agreements listed on *Schedule 5.09(a)* of the Company Disclosure Schedule, which shall survive the transactions contemplated hereby and continue in full force and effect in accordance with their respective terms. Without limiting the foregoing, Parent, from and after the Effective Time until the sixth (6th) anniversary of the date on which the Effective Time shall occur, shall cause the certificate of incorporation and bylaws of the Surviving Corporation to contain provisions no less favorable to the Indemnitees with respect to limitation of liabilities of directors and officers, indemnification and advancement of expenses than are set forth as of the date of this Agreement in the charter, bylaws and similar organizational documents of the Company as currently in effect, which provisions shall not be amended, repealed or otherwise modified in a manner that would adversely affect the rights thereunder of the Indemnitees. In addition, from and after the Effective Time, Parent shall, and shall cause the Company and the Surviving Corporation to, advance any expenses (including

reasonable fees and expenses of legal counsel) of any Indemnitee under this Section 5.09 (including in connection with enforcing the indemnity and other obligations referred to in this Section 5.09) as incurred to the fullest extent permitted under applicable Law, *provided* that the person to whom expenses are advanced provides an undertaking to repay such advances to the extent required by applicable Law.

(b) An Indemnitee shall have the right, but not the obligation, to assume and control the defense of any litigation, claim or proceeding relating to any acts or omissions covered under this Section 5.09 (each, a "**Claim**") with counsel selected by the Indemnitee, which counsel shall be reasonably acceptable to Parent; *provided, however*, that Parent (i) shall be permitted to participate in the defense of such Claim at its own expense and (ii) shall not be liable for any settlement effected without Parent's written consent, which consent shall not be withheld if such settlement does not provide for monetary damages, the terms of such settlement do not include any equitable remedies or restrictions on the Surviving Corporation or its Subsidiaries and such settlement does not contain any admission detrimental to the Surviving Corporation or its Subsidiaries. Each of Parent, the Company, the Surviving Corporation and the Indemnitees shall cooperate in the defense of any Claim and shall provide access to properties and individuals as reasonably requested and furnish or cause to be furnished records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials or appeals, as may be reasonably requested in connection therewith. Nothing in this Section 5.09(b) shall relieve Parent of its indemnity and other obligations set forth in Section 5.09(a). Notwithstanding anything to the contrary contained in this Section 5.09 or elsewhere in this Agreement, neither Parent nor the Surviving Corporation shall (and Parent shall cause the Surviving Corporation not to) settle or compromise or consent to the entry of any judgment or otherwise seek termination with respect to any Action for which indemnification may be sought under this Section 5.09, unless such settlement, compromise, consent or termination includes an unconditional release of all of the Indemnitees covered by the Action from all liability arising out of such Action, and does not include an admission of fault or wrongdoing by any Indemnitee.

(c) For the six (6) year period commencing immediately after the Effective Time, Parent shall maintain in effect the Company's current directors' and officers' liability insurance and all other fiduciary liability insurance (including ERISA) covering acts or omissions occurring at or prior to the Effective Time with respect to those persons who are currently (and any directors or officers of the Company or any Subsidiary of the Company or plan fiduciaries who prior to the Effective Time become) covered by the Company's directors' and officers' liability insurance policy and any other fiduciary liability insurance on terms and scope with respect to such coverage, and in amount, not less favorable taken as a whole, to such individuals than those of such policies in effect on the date hereof; *provided, however*, that, if the annual premiums for such insurance shall exceed three hundred percent (300%) of the current annual premiums, then Parent shall provide or cause to be provided policies for the applicable individuals with the best coverage as shall then be available at annual premiums of three hundred percent (300%) of the current annual premiums; *provided*, *further*, *however*, that any such replacement or substitution of insurance policies shall not result in gaps in coverage; *provided, further*, *however*, that (i) the Company shall obtain a "tail" policy on its current directors' and officers' insurance policy prior to the Effective Time, covering the six (6) year period contemplated by this Section 5.09(c) (the "**D&O Tail Policy**"), with the premium on such D&O

Tail Policy being paid out of the Company's existing cash (but subject to the adjustment set forth in the definition of "Cash and Cash Equivalents") and (ii) the Company may obtain a "tail" policy on its current fiduciary liability insurance policy covering ERISA matters prior to the Effective Time, covering the six (6) year period contemplated by this Section 5.09(c) (the "**ERISA Tail Policy**" and, together with the D&O Tail Policy, the "**Tail Policies**"), with the premium on such ERISA Tail Policy being paid out of the Company's existing cash (but subject to the adjustment set forth in the definition of "Cash and Cash Equivalents").

(d) The provisions of this Section 5.09 (i) are intended to be for the benefit of, and shall be enforceable by, each Indemnitee, his or her heirs and his or her representatives, (ii) are in addition to, and not in substitution for, any other rights to indemnification or contribution that any such Person may have by contract or otherwise, and (iii) shall survive the consummation of the Merger indefinitely. The obligations of Parent and the Surviving Corporation under this Section 5.09 shall not be terminated or modified in such a manner as to adversely affect the rights of any Indemnitee to whom this Section 5.09 applies unless (A) such termination or modification is required by applicable Law, (B) the affected Indemnitee shall have consented in writing to such termination or modification or (C) this Agreement has been terminated in accordance with its terms (it being expressly agreed that the Indemnitees to whom this Section 5.09 applies shall be third party beneficiaries of this Section 5.09).

(e) In the event that Parent, the Surviving Corporation or any of their respective successors or assigns (i) consolidates with or merges into any other Person and is not the continuing or surviving corporation or entity of such consolidation or merger or (ii) transfers or conveys all or substantially all of its properties and assets to any Person, then, and in each such case, proper provision shall be made so that the successors and assigns of Parent and the Surviving Corporation shall assume all of the obligations thereof set forth in this Section 5.09.

Section 5.10 Fees and Expenses. Whether or not the Merger is consummated, all fees and expenses incurred in connection with the Merger, this Agreement and the transactions contemplated hereby shall be paid by the party incurring or required to incur such fees or expenses, except as otherwise set forth in this Agreement. Notwithstanding anything herein to the contrary, the Company and Parent shall each pay one-half of any filing fees that may be required under the HSR Act or other antitrust filings with any Governmental Authority by reason of the transactions contemplated hereby.

Section 5.11 Employee Matters.

(a) *Non-Retained Employees; Certain Severance Expenses*. The Company shall cause each of the Non-Retained Business Employees reflected on the Non-Retained Business Employee List with an asterisk next to their name to resign or otherwise be removed prior to or effective as of the Effective Time. Each other Non-Retained Business Employees shall have received a notice of termination from the Company prior to the Closing indicating that such individuals last date of employment shall be not less than 60 days following the date of such notice. All Severance Expenses related to the Non-Retained Business Employees that have not been fully paid and discharged by the Company as of the Closing, whether or not any such amounts are accrued and owing as of the Closing, shall be included in

the Severance Escrow Amount and excluded from the calculation of Working Capital as of the Closing Date. Following the Closing, Parent shall pay or caused to be paid all such Severance Expenses through the Company's payroll as and when such amounts become payable and Parent shall be entitled to seek reimbursement for payment of such amounts from the Severance Escrow Amount. Parent and the Stockholder Representative shall execute joint written instructions to the Escrow Agent instructing the Escrow Agent to disburse the funds from the Severance Escrow Amount in accordance with this Section 5.11 and the Escrow Agreement. If any Non-Retained Business Employee with respect to which the Company incurred Severance Expenses between the date of this Agreement and the Closing (including, for the avoidance of doubt, Severance Expenses that are included in the Severance Escrow Amount) commences employment with Parent or any of its Affiliates, including the Surviving Corporation or any of its Subsidiaries, during the twelve (12) month period following the Closing, then Parent shall promptly pay in cash to the Paying Agent, for the benefit of the former holders of shares of Company Common Stock and Warrants, an amount equal to the Severance Expenses incurred by the Company with respect to such Non-Retained Business Employee, and the Paying Agent shall promptly distribute such amount to the former holders of shares of Company Common Stock and Warrants in the manner provided in Article 2 of this Agreement.

(b) *Employee Communications*. The Company and Parent shall cooperate in communications with Retained Business Employees with respect to employee benefit plans maintained by the Company or Parent and with respect to other matters arising in connection with the transactions contemplated by this Agreement.

Section 5.12 Agreement to Defend; Stockholder Litigation. In the event any Action by any Governmental Authority or any Person is commenced that questions or challenges the validity or legality of the Merger or this Agreement or seeks damages in connection therewith, the parties hereto agree to cooperate and use their commercially reasonable efforts to defend against and respond thereto; *provided* that nothing in this Section 5.12 shall limit any party's obligations under Section 5.05 hereof.

Section 5.13 Resignation of Directors and Officers. The Company shall cause each of the directors and officers of the Company, to the extent requested by Parent no less than ten (10) Business Days prior to the Closing Date, to submit a letter of resignation or otherwise be removed effective at the Effective Time.

Section 5.14 FIRPTA Certificate. On or prior to the Closing Date, the Company shall deliver to Parent a certification (to the effect that any interests in the Company do not constitute "U.S. real property interests") substantially in the form of *Exhibit D*; provided that, if the Company fails to comply with this Section 5.14, the Merger shall nonetheless close and Parent shall withhold or cause to be withheld from the Merger Consideration and pay over to the appropriate Tax Authority the amount required to be withheld under Section 1445 of the Code.

Section 5.15 Financing Cooperation.

(a) (i) As soon as reasonably practicable, but in any event within fifteen (15) Business Days following the execution and delivery of this Agreement by the parties hereto, Parent shall have delivered to the Company legally binding and enforceable commitment

letters covering the Equity Financing (the "**Equity Commitments**") and legally binding and enforceable debt commitment letters covering the Debt Financing (the "**Debt Commitments**" and, together with the Equity Commitments, the "**Financing Commitments**"), in each case, in customary form from reasonably creditworthy equity providers and bona fide third party lenders, which Financing Commitments will provide Parent with funding at the Closing sufficient to consummate the transactions contemplated by this Agreement upon the terms contemplated hereby, including the Merger, and will be sufficient for the satisfaction of all of Parent's and Merger Sub's obligations under this Agreement as of the Closing, including the payment of the Base Merger Consideration and the payment of all related fees and expenses reasonably expected to be incurred by Parent in connection with such transactions.

(ii) From and after receipt of the Financing Commitments, Parent shall use its reasonable best efforts to arrange and consummate the Financings on or prior to the Closing Date on the terms and conditions described in the Financing Commitments and shall not permit any amendment or modification to be made to, or any waiver of any provision under, the Financing Commitments if such amendment, modification or waiver (A) reduces (or could have the effect of reducing) the aggregate amount of the Financing (including by increasing the amount of fees to be paid or original issue discount in respect of the Debt Financing) unless (x) the Debt Financing or the Equity Financing is increased by a corresponding amount or the Debt Financing is otherwise made available to fund such fees or original issue discount and (y) after giving effect to any of the transactions referred to in clause (x) above, the representations and warranties set forth in Sections 4.06 shall be true and correct) or (B) imposes new or additional conditions or otherwise expands, amends or modifies any of the conditions to the receipt of Financing, or otherwise expands, amends or modifies any other provision of the Financing Commitments, in a manner that would reasonably be expected to (x) delay or prevent or make materially less likely the funding of the Financings (or satisfaction of the conditions to the Financings) on the Closing Date or (y) adversely impact the ability of Parent or the Company, as applicable, to enforce its rights against other parties to the Financing Commitments or the definitive agreements with respect thereto. Parent shall promptly deliver to the Company copies of any such amendment, modification or replacement (*provided* that Parent may amend the Debt Commitment to add lenders, lead arrangers, bookrunners, syndication agents or similar entities who had not executed the Debt Commitment as of the date hereof).

(iii) Parent shall use its reasonable best efforts: (A) to maintain in effect the Financing Commitments and to negotiate and enter into definitive agreements with respect thereto on terms and conditions contained therein (or, at Parent's option, on other terms, so long as such terms do not materially expand the conditions precedent to (in the aggregate), and will not materially delay, the initial funding of the Financings) (the "**Financing Agreements**"); (B) to satisfy on a timely basis all conditions in the Financing Commitments and the Financing Agreements that are within its control or subject to its influence, and upon satisfaction of the conditions set forth in the Financing Commitments and the Financing Agreements, as applicable, to consummate the Financing at or prior to the Closing, including using its reasonable best efforts (including through litigation pursued in good faith against the Equity Investors) to cause the Debt Lenders and the Equity Investors committing to fund the Financing to fund the Financing at the Closing; and (C) to comply with its obligations and to enforce its rights (including through litigation pursued in good faith against the Equity Investors) under the Financing Agreements.

(b) In the event any portion of either of the Financings becomes or could become unavailable on the terms and conditions contemplated in the Financing Commitments or the Financing Agreements, Parent shall immediately so notify the Company, and Parent shall use its reasonable best efforts (i) to arrange and obtain any such portion from alternative sources on terms not less favorable to Parent in the aggregate than set forth in such Financing Commitment in an amount sufficient, when added to the portion of the Financings that is available, to consummate the transactions contemplated by this Agreement and to pay all related fees and expenses (the "**Alternative Financing**") and (ii) to obtain, and, when obtained, promptly provide the Company with a copy of, a new financing commitment that provides for such Alternative Financing in an amount that is sufficient, when added to the portion of the Financings that is available, to consummate the transactions contemplated by this Agreement and to pay all related fees and expenses (the "**Alternative Financing Commitment**"), in each case, as promptly as practicable following the occurrence of such event. To the extent applicable, Parent shall use its reasonable best efforts to arrange and consummate the Alternative Financing on the terms and conditions described in the Alternative Financing Commitment, which shall include using its reasonable best efforts to: (x) maintain in effect such Alternative Financing Commitment and enter into definitive agreements with respect thereto on terms and conditions contained therein (the "**Alternative Financing Agreements**") and delivering to the Company a copy thereof as promptly as practicable (and no later than one Business Day) after such execution; (y) satisfy on a timely basis all conditions in the Alternative Financing Agreements within its control or subject to its influence, and upon satisfaction of the conditions set forth in the Alternative Financing Commitments and the Alternative Financing Agreements, as applicable, to consummate the Alternative Financing at or prior to the Closing, including using its reasonable best efforts (including through litigation pursued in good faith) to cause the Persons committing to fund the Alternative Financing to fund the Alternative Financing at the Closing; and (z) to comply with its obligations and to enforce its rights (including through litigation pursued in good faith against the Equity Investors) under the Alternative Financing Agreements.

(c) Parent shall give the Company notice promptly upon becoming aware of any breach, threatened breach or default by any party to the Financing Commitments or the Financing Agreements and, if applicable, the Alternative Financing Commitment or the Alternative Financing Agreements, and Parent shall give the Company notice promptly upon becoming aware of any termination or threatened termination of the Financing Commitments or the Financing Agreements and, if applicable, the Alternative Financing Commitment or the Alternative Financing Agreements. Parent shall keep the Company informed on a reasonably current basis in reasonable detail of the status of its efforts to arrange the Financings (and, if applicable, the Alternative Financing). Parent shall not, without the prior written consent of the Company (which shall not be unreasonably withheld, conditioned or delayed), amend, modify, supplement, restate, substitute or replace any Financing Commitment, any Alternative Financing Commitment, any Financing Agreement or any Alternative Financing Agreement in any manner that would reasonably be expected to materially impair, delay or prevent the consummation of the transactions contemplated by this Agreement or make the funding of the Financing (or the Alternative Financing, as applicable) materially less likely to occur. Each of Parent and Merger Sub acknowledges and agrees that neither the obtaining of the Financing or any Alternative Financing, nor the completion of any issuance of securities contemplated by the Financing or any Alternative Financing, is a condition to the Closing, and reaffirms its obligation to consummate

the transactions contemplated by this Agreement irrespective and independently of the availability of the Financing or any Alternative Financing, or the completion of any such issuance, subject to the applicable conditions set forth in Article 6.

(d) Prior to the Closing Date, the Company and its Subsidiaries shall, and the Company shall use its commercially reasonable efforts to cause its and their Representatives to, provide to Parent and Merger Sub such reasonable cooperation and assistance as may be reasonably requested by Parent in connection with the arrangement of the Financing and, as applicable, any Alternative Financing (*provided*, *however*, that no such requested cooperation and assistance shall unreasonably interfere with the ongoing operations of the Company and its Subsidiaries), including (i) making senior management reasonably available for customary lender meetings and "roadshow" presentations in the United States and cooperating with prospective lenders in performing their due diligence, (ii) cooperating in the preparation of any offering memorandum, marketing materials or similar documents, (iii) furnishing Parent and its financing sources with financial and other pertinent information regarding the Company as may be reasonably requested by Parent, including financial statements and financial data, (iv) assisting in obtaining customary payoff letters, lien terminations and instruments of discharge to be delivered at Closing and (v) providing and executing documents as may be reasonably requested by Parent; *provided*, *however*, that no obligation of the Company or any of its Subsidiaries under any certificate, document or instrument shall be effective until the Effective Time, and none of the Company or any of its Subsidiaries shall be required to pay any commitment or other similar fee or execute or deliver any agreement, document or certificate or incur any other liability in connection with the Financing prior to the Effective Time, and no personal liability shall be imposed on any officers, directors or other Representatives of the Company.

(e) Parent shall (i) promptly upon request by the Company, reimburse the Company for all reasonable and documented out-of-pocket costs and expenses (including reasonable attorneys' fees) incurred by the Company and its Subsidiaries in connection with cooperation provided for in Section 5.15(d) and (ii) indemnify and hold harmless the Company, its Subsidiaries and their respective Representatives from and against any and all Losses suffered or incurred by them in connection with the arrangement of the Financing or, if applicable, the Alternative Financing, and any information utilized in connection therewith (other than information provided by the Company). All non-public or otherwise confidential information regarding the Company and its Subsidiaries obtained by Parent, its Affiliates or its Representatives pursuant to this Section 5.15 shall be kept confidential in accordance with the terms of the Confidentiality Agreement.

Section 5.16 Title Insurance. Prior to the Closing, the Company shall, and shall cause its Subsidiaries to, provide all cooperation and assistance as may reasonably be requested by Parent in connection with Parent's efforts to obtain owner's and lender's policies of title insurance in respect of the Owned Real Property listed on *Schedule 5.16* of the Company Disclosure Schedule or an irrevocable and unconditional binder to issue the same, dated, or updated to, the Closing Date, insuring or committing to insure Parent's (or a Subsidiary of Parent's) good and marketable title in fee simple to each parcel of Owned Real Property listed on *Schedule 5.16* of the Company Disclosure Schedule, subject only to Permitted Encumbrances, and containing such affirmative endorsements as desired by Parent, acting reasonably. Such

cooperation will include the execution of such instruments reasonably requested to enable Parent to obtain such insurance and desired endorsements; *provided*, *however*, that the Company and its Subsidiaries shall not be required to execute any instrument which expands in any way the representations and warranties contained herein (for purposes of this Agreement, any instrument executed by the Company or its Subsidiaries pursuant to this Section 5.16 shall be deemed to have been executed and delivered following the Closing). The premiums for such insurance will be Parent's responsibility. Parent shall promptly upon request by the Company reimburse the Company for all reasonable and documented out-of-pocket costs, including the reasonable fees and expenses of outside counsel, incurred by the Company in connection with the cooperation and assistance provided for in this Section 5.16.

Section 5.17 Tax Matters.

(a) *Tax Periods Ending on or Before the Closing Date*. Parent shall prepare and cause to be prepared and file or cause to be filed all Tax Returns for the Company for all periods ending on or prior to the Closing Date that are filed after the Closing Date. Such Tax Returns shall be prepared in accordance with past practice of the Company and, in the case of the United States federal income tax return Form 1120 and state income Tax Returns, shall be subject to the Stockholder Representative's approval (which approval shall not be unreasonably withheld or delayed) and shall be delivered to the Stockholder Representative at least thirty (30) days prior to the due date for review and approval. Except as required by applicable law, until the expiration of the Survival Period, Parent shall not file an amended Tax Return related to any period ending on or prior to the Closing Date (or portion thereof) without the Stockholder Representative's approval (which approval shall not be unreasonably withheld or delayed).

(b) *Taxable Periods Beginning Before and Ending After the Closing Date*. Parent shall prepare and cause to be prepared and file or cause to be filed all Tax Returns for the Company for all periods beginning before the Closing Date and ending after the Closing Date. The United States federal income tax return Form 1120 and any state income Tax Returns shall be subject to the Stockholder Representative's approval (which approval shall not be unreasonably withheld or delayed) and shall be delivered to the Stockholder Representative at least thirty (30) days prior to the due date for review and approval.

(c) *Taxable Periods Beginning and Ending After the Closing Date*. Parent shall be responsible for, and shall have sole discretion with respect to, all Tax Returns required to be filed by the Company with respect to any taxable period that begins after the Closing Date.

(d) *Tax Characterization; Redemption Merger Consideration*. Parent, Merger Sub, the Company, and the holders of Company Common Stock and Warrants intend that for U.S. federal, state and local income tax purposes the Redemption Merger Consideration (as defined below) shall be treated, pursuant to Revenue Ruling 54-458, 1954-2 C.B. 167 and the holding in Zenz v. Quinlivan, 213 F.2d 914 (6th Cir. 1954), as a redemption of Company Common Stock and Warrants by the Company. Parent shall, and shall cause the Surviving Corporation to, treat the Redemption Merger Consideration for purposes of all federal, state and local taxes as an integrated transaction with the Merger and thus report the Redemption Merger Consideration as a redemption of a number of shares of Company Common Stock and Warrants

equal in value to the value of the Redemption Merger Consideration at the Effective Time of the Merger. Each party hereto agrees to report the Merger consistently with the foregoing on all applicable Tax Returns and to treat none of the Merger Consideration as a dividend subject to withholding tax. For purposes of this Section 5.17(d), "**Redemption Merger Consideration**" shall mean the portion of the Merger Consideration that consists of Net Cash and Cash Equivalents as set forth in the Statement of Estimated Net Cash and Cash Equivalents.

Section 5.18 Other Freedom Businesses.

(a) The Company shall use commercially reasonable efforts to, and to cause its applicable Subsidiaries to, as soon as reasonably practicable following the date of this Agreement, consummate the Remaining Disposition Transactions.

(b) Parent acknowledges that: the Disposition Agreements contain post-closing purchase price adjustments ("**Purchase Price Adjustments**"); such Purchase Price Adjustments may result in an increase or decrease of the purchase price paid at closing under the applicable Disposition Agreement; and such Purchase Price Adjustments may occur after the Closing Date. In that regard, Parent agrees that, in connection with any Purchase Price Adjustment that occurs after the Closing Date which results in an increase of the purchase price paid at closing under a Disposition Agreement (each, a "**Purchase Price Increase**"), Parent shall promptly pay in cash to the Paying Agent, for the benefit of the former holders of shares of Company Common Stock and Warrants, the amount of such Purchase Price Increase, and the Paying Agent shall promptly distribute such amount to the former holders of shares of Company Common Stock and Warrants in the manner provided in Article 2 of this Agreement. If, on the other hand, a Purchase Price Adjustment that occurs after the Closing Date results in a decrease of the purchase price paid at closing under a Disposition Agreement (each, a "**Purchase Price Decrease**"), Parent and the Stockholder Representative shall deliver joint written notice to the Escrow Agent specifying the amount of such Purchase Price Decrease and the Escrow Agent shall, within two (2) Business Days of its receipt of such notice and in accordance with the terms of the Escrow Agreement, pay such amount to Parent by wire transfer of immediately available funds from the Indemnification Escrow Amount. In the event the Indemnification Escrow Amount then remaining in escrow is insufficient to cover the amount of such Purchase Price Decrease, the Escrow Agent shall distribute the entire amount of the Indemnification Escrow Amount then remaining in escrow to Parent in full satisfaction of such Purchase Price Decrease. Notwithstanding anything in this Agreement to the contrary, to the extent the Indemnification Escrow Amount is insufficient to pay to Parent any amount pursuant to this Section 5.18(b) in full, Parent shall have no claim or remedy against any Person, including without limitation any holder of shares of Company Common Stock or Warrants or the Stockholder Representative for any such amounts.

(c) Parent further acknowledges that: the Disposition Agreements contain post-closing indemnification obligations ("**Indemnification Obligations**") of the Surviving Corporation or one or more of its Subsidiaries that are parties to such Disposition Agreements (the "**Relevant Parties**"); to secure such Indemnification Obligations, a portion of the cash purchase price under certain of the Disposition Agreements is being withheld at closing and not paid over to the Relevant Parties (any such amount, a "**Holdback Amount**"); and, at the expiration of the holdback period specified in such Disposition Agreements, any portion of the

relevant Holdback Amount then remaining may be required to be released to the Relevant Parties (any such amount so released, a "**Released Holdback Amount**"). In that regard, Parent agrees that, in connection with any such release that occurs after the Closing Date, Parent shall promptly pay in cash to the Paying Agent, for the benefit of the former holders of shares of Company Common Stock and Warrants, an amount equal to such Released Holdback Amount, and the Paying Agent shall distribute such amount to the former holders of shares of Company Common Stock and Warrants in the manner provided in Article 2 of this Agreement.

(d) Parent agrees that the Stockholder Representative shall have the right to control the conduct and resolution of all matters relating to (i) any Purchase Price Adjustment and (ii) any claim in respect of an Indemnification Obligation (including, without limitation, the right to defend, settle, adjust or compromise any such claim), in each case under this clause (ii), to the extent the relevant remaining Holdback Amount is sufficient to fully pay and discharge the amount of such claim. For the avoidance of doubt, the Stockholder Representative shall not have the right to control the resolution of any claim in respect of an Indemnification Obligation under the Broadcast Sale Agreement, in which there is no Holdback Amount, or under any of the other Disposition Agreements once the Holdback Amount under such Disposition Agreement has been exhausted or released. The Stockholder Representative shall keep Parent advised of all material events with respect to any Purchase Price Adjustment and any claim in respect of an Indemnification Obligation that the Stockholder Representative is entitled to control, as provided above. Parent shall have the right to reasonably participate (but not control), at Parent's own expense, in the handling of any matter related to a Purchase Price Adjustment or any such claim in respect of an Indemnification Obligation. Notwithstanding anything herein to the contrary, the resolution of any matter described in clause (i) or (ii) above which could reasonably be expected to result in Losses to Parent (other than de minims administrative costs) or a reduction in the Indemnification Escrow Amount, shall be subject to the prior written consent of Parent, which consent shall not to be unreasonably withheld, delayed or conditioned.

(e) True, correct and complete copies of the Disposition Agreements have been made available by the Company to Parent

Section 5.19 Pension Contributions. Prior to the Closing, the Company shall have made aggregate cash contributions to the Pension Plans during calendar year 2012 equal to, but not to exceed, $8,000,000.

ARTICLE 6

CONDITIONS PRECEDENT

Section 6.01 Conditions to Each Party's Obligation to Effect the Merger. The respective obligations of each party hereto to effect the Merger shall be subject to the satisfaction (or written waiver, if permissible under applicable Law) on or prior to the Closing of the following conditions:

(a) *Company Stockholder Approval.* The Company Stockholder Approval shall have been obtained.

(b) *Antitrust.* The waiting period (and any extension thereof) applicable to the Merger and the transactions contemplated hereby under the HSR Act shall have been terminated or shall have expired.

(c) *No Injunctions or Restraints.* No Law or Order, promulgated, issued, entered, amended or enforced by any Governmental Authority (collectively, "**Restraints**") shall be in effect enjoining, restraining, preventing or prohibiting consummation of the Merger or making the consummation of the Merger illegal.

(d) *Remaining Disposition Transactions*. The Remaining Disposition Transactions shall have been consummated.

Section 6.02 Conditions to Obligations of Parent and Merger Sub. The obligations of Parent and Merger Sub to effect the Merger are further subject to the satisfaction (or written waiver, if permissible under applicable Law) on or prior to the Closing of the following conditions:

(a) *Representations and Warranties.* (i) the representations and warranties set forth in Section 3.01, 3.02(a), 3.02(c) and 3.03(a) shall be true and correct at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of the Closing (other than, in the case of Sections 3.02(a) and 3.02(c), for such failures to be true and correct as are de minimis in effect) and (ii) all other representations and warranties set forth in Article 3, when read without any exception or qualification as to Company Material Adverse Effect or materiality, shall be true and correct at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of the Closing Date, except where the failure of such representations or warranties to be so true and correct would not have or reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect; *provided*, *however*, that representations and warranties that are made as of a particular date or period shall be true and correct (in the manner set forth in clauses (i) and (ii), as applicable) only as of such date or period. Parent shall have received a certificate dated as of the Closing Date signed on behalf of the Company by an executive officer of the Company as to the effect of the preceding sentence.

(b) *Performance of Obligations of the Company.* The Company shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date, and Parent shall have received a certificate dated as of the Closing Date signed on behalf of the Company by an executive officer of the Company to such effect.

(c) *Company Material Adverse Effect*. Between the Balance Sheet Date and the Closing Date, there shall have been no change, event or occurrence that has had, or could reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(d) *Appraisal Rights*. Holders of Company Common Stock holding no more than seven percent (7%) of the outstanding shares of Company Common Stock shall have demanded appraisal for their shares pursuant to the DGCL.

Section 6.03 Conditions to Obligations of the Company. The obligation of the Company to effect the Merger is further subject to the satisfaction (or written waiver, if permissible under applicable Law) on or prior to the Closing of the following conditions:

(a) *Representations and Warranties.* (i) the representations and warranties set forth in Section 4.01 and 4.02(a) shall be true and correct at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of the Closing and (ii) all other representations and warranties set forth in Article 4, when read without any exception or qualification as to materiality, shall be true and correct at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of the Closing Date, except where the failure of such representations or warranties to be so true and correct would not have or reasonably be expected to have, individually or in the aggregate, a material adverse effect on the ability of Parent, Merger Sub or the Surviving Corporation to perform their respective obligations under this Agreement; *provided*, *however*, that representations and warranties that are made as of a particular date or period shall be true and correct (in the manner set forth in clauses (i) and (ii), as applicable) only as of such date or period. The Company shall have received a certificate dated as of the Closing Date signed on behalf of Parent and Merger Sub by an executive officer of Parent as to the effect of the preceding sentence..

(b) *Performance of Obligations of Parent and Merger Sub.* Parent and Merger Sub shall have performed in all material respects all obligations required to be performed by them under this Agreement at or prior to the Closing Date, and the Company shall have received a certificate dated as of the Closing Date signed on behalf of Parent and Merger Sub by an executive officer of Parent to such effect.

ARTICLE 7

TERMINATION

Section 7.01 Termination. This Agreement may be terminated and the transactions contemplated hereby abandoned at any time prior to the Effective Time, whether before or after the Company Stockholder Approval is obtained (except as otherwise expressly noted):

(a) by the mutual written consent of the Company and Parent duly authorized by their respective board of directors; or

(b) by either of the Company or Parent:

(i) if the Company Stockholder Approval shall not have been obtained by June 25, 2012;

(ii) if the Merger shall not have been consummated on or before the sixty-first (61st) day following the date that falls sixty calendar days after the date of this Agreement (the "**Termination Date**"); *provided*, *however*, that (A) Parent shall not have the right to terminate this Agreement pursuant to this Section 7.01(b)(i) if the Company has the right to terminate this Agreement pursuant to Section 7.01(d)(i) and (B) the Company shall not have

the right to terminate this Agreement pursuant to this Section 7.01(b)(i) if Parent has the right to terminate this Agreement pursuant to Section 7.01(c)(i); or

(iii) if any Restraint having the effect set forth in Section 6.01(c) shall be in effect and shall have become final and nonappealable; or

(c) by Parent:

(i) if the Company shall have breached or failed to perform any of its representations, warranties, covenants or agreements set forth in this Agreement, which breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 6.02(a) or Section 6.02(b) and (B) cannot be cured by the Company by the Termination Date or, if capable of being cured, shall not have been cured within thirty (30) calendar days following receipt of written notice from Parent stating Parent's intention to terminate this Agreement pursuant to this Section 7.01(c)(i) and the basis for such termination; *provided*, *however*, that Parent shall not have the right to terminate this Agreement pursuant to this Section 7.01(c)(i) if it is then in breach of any of its representations, warranties, covenants or other agreements hereunder that would result in the conditions to Closing set forth in Section 6.03(a) or Section 6.03(b) not being satisfied; or

(ii) prior to obtaining the Company Stockholder Approval, if the board of directors of the Company or any committee thereof shall have made a Company Adverse Recommendation Change, including approving or recommending to the stockholders of the Company a Superior Proposal; or

(d) by the Company:

(i) if Parent or Merger Sub shall have breached or failed to perform any of its representations, warranties, covenants or agreements contained in this Agreement, which breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 6.03(a) or Section 6.03(b) and (B) cannot be cured by Parent or Merger Sub by the Termination Date or, if capable of being cured, shall not have been cured within thirty (30) calendar days following receipt of written notice from the Company stating the Company's intention to terminate this Agreement pursuant to this Section 7.01(d)(i) and the basis for such termination; *provided*, *however*, that the Company shall not have the right to terminate this Agreement pursuant to this Section 7.01(d)(i) if it is then in breach of any of its representations, warranties, covenants or other agreements hereunder that would result in the conditions to Closing set forth in Section 6.02(a) or Section 6.02(b) not being satisfied; or

(ii) in order to enter into a definitive agreement providing for the implementation of a transaction that is a Superior Proposal, if (A) the Company has complied with Section 5.04(f) and (B) prior to or concurrently with such termination, the Company pays the Termination Fee (as defined herein);

(iii) if all of the conditions set forth in Section 6.01 and 6.02 have been satisfied (other than those conditions that by their nature cannot be satisfied other than at the Closing) and Parent and Merger Sub fail to consummate the transactions contemplated by this Agreement within the earlier of (A) two (2) Business Days after the date the Closing should

have occurred pursuant to Section 2.02 and (B) the later of the date the Closing should have occurred pursuant to Section 2.02 and one (1) Business Day before the Termination Date, and the Company stood ready, willing and able to consummate the transactions contemplated by this Agreement during such period; or

(iv) the Company shall not have received executed copies of the Financing Commitments contemplated by Section 5.15 by June 30, 2012.

Section 7.02 Effect of Termination. In the event of the valid termination of this Agreement as provided in Section 7.01, written notice thereof shall be given to the other party or parties, specifying the provisions hereof pursuant to which such termination is made and this Agreement shall forthwith become null and void (other than this Section 7.02, Section 7.03, Article 9, Section 5.06, Section 5.10, Section 5.15(e) and the Confidentiality Agreement, in accordance with its terms, all of which shall survive termination of this Agreement), and there shall be no liability on the part of any Parent Party or Company Party, except (a) the Company or Parent may have liability as provided in Section 7.03, and (b) nothing herein shall relieve any party from liability for intentional breach of this Agreement or fraud.

Section 7.03 Termination Fee.

(a) In the event that:

(i) (A) a Takeover Proposal shall have been publicly disclosed or communicated to the Company after the date hereof, (B) following the occurrence of an event described in the preceding clause (A), this Agreement is terminated either (x) by the Company pursuant to Section 7.01(b)(i) or (y) by Parent pursuant to Section 7.01(b)(i) or Section 7.01(c)(i) and, at the time of such termination by Parent, Parent shall have previously delivered to the Company the Financing Commitments contemplated by Section 5.15 and (C) within six (6) months following the date this Agreement is terminated, the Company enters into a definitive agreement with respect to such Takeover Proposal or consummates a transaction regarding such Takeover Proposal; *provided*, *however*, that for purposes of clause (C) of this Section 7.03(a)(i), the references to "twenty percent (20%)" in the definition of Takeover Proposal shall be deemed to be references to "fifty percent (50%)"; or

(ii) this Agreement is terminated by the Company pursuant to Section 7.01(d)(ii); or

(iii) this Agreement is terminated by Parent pursuant to Section 7.01(c)(ii);

then the Company shall pay to Parent's designees the Termination Fee, by wire transfer of same day funds, it being understood that in no event shall the Company be required to pay the Termination Fee on more than one occasion. For purposes of this Agreement, "**Termination Fee**" shall mean an amount equal to $5,000,000. If the Termination Fee becomes payable pursuant to Section 7.03(a)(i), it shall be paid no later than the date of the consummation of the Takeover Proposal transaction described in clause (C) of Section 7.03(a)(i). If the Termination Fee becomes payable pursuant to Section 7.03(a)(ii), it shall be paid prior to or contemporaneously with the termination of this Agreement pursuant to Section 7.01(d)(ii) (and

any purported termination pursuant to this Section shall be void and of no force or effect unless the Company shall have made such payment). If the Termination Fee becomes payable pursuant to Section 7.03(a), it shall be paid no later than three (3) Business Days after the termination of this Agreement pursuant to Section 7.01(c)(ii). Except with respect to fraud, in the event that Parent shall receive full payment pursuant to this Section 7.03(a), the receipt of the Termination Fee, together with any required reimbursement of applicable expenses pursuant to Section 7.03(c), shall be deemed to be liquidated damages for any and all losses or damages (including any punitive or consequential damages) suffered or incurred by Parent, Merger Sub or any other Person in connection with this Agreement (and the termination hereof), the transactions contemplated hereby (and the abandonment thereof) or any matter forming the basis for such termination, and shall be the sole and exclusive remedy of Parent and Merger Sub in connection with this Agreement (and the termination hereof), the transactions contemplated hereby (and the abandonment thereof) or any matter forming the basis for such termination, and neither Parent nor Merger Sub nor any other Person shall be entitled to bring or maintain any other claim, action or proceeding against the Company or any Company Party arising out of this Agreement, any of the transactions contemplated hereby or any matters forming the basis for such termination.

(b) Any amount that becomes payable pursuant to Section 7.03(a) shall be paid by wire transfer of immediately available funds to an account designated by the party entitled to receive such payment.

(c) Each of the parties hereto acknowledges that the agreements contained in this Section 7.03 are an integral part of the transactions contemplated hereby, and that without these agreements, the other party would not enter into this Agreement. Accordingly, if the Company or Parent, as the case may be, fails to timely pay any amount due pursuant to this Section 7.03, and, in order to obtain the payment, the other party commences a suit which results in a judgment against the paying party for the payment set forth in this Section 7.03, such paying party shall pay the other party its reasonable and documented costs and expenses (including reasonable and documented attorneys' fees) in connection with such suit, together with interest on such amount (at the prime rate of JPMorgan Chase Bank, N.A. in effect on the date such payment was required to be made) through the date such payment was actually received.

ARTICLE 8

INDEMNIFICATION

Section 8.01 Survival of Representations, Warranties and Covenants. The representations and warranties in this Agreement or in any instrument delivered pursuant to this Agreement shall survive until the one (1) year anniversary of the Closing Date (the "**Survival Date**"); as of the Survival Date, all representations and warranties in this Agreement (or in any instrument delivered pursuant hereto) shall automatically terminate and be of no further force or effect, and except for fraud or intentional breach, no claims of any type whatsoever arising out of, based upon or relating any way to such representations and warranties may be brought by any party after the Survival Date. Furthermore, except for fraud or intentional breach, the parties hereto (i) intend that the preceding sentence relating to the expiration and automatic termination of the representations and warranties in this Agreement (or in any instrument delivered pursuant

hereto) as of the Survival Date shall operate as a contractual statute of limitations relating to any and all claims of any type whatsoever arising out of, based upon or relating in any way to such representations and warranties and shall replace and supplant any statute of limitations which may otherwise apply thereto, and (ii) agree and acknowledge that such replacement and supplanting of the statute of limitations by the contractual statute of limitations in this Section 8.01 is reasonable and appropriate. This Section 8.01 shall not limit any covenant or agreement of the parties that by its terms contemplates performance after the Effective Time. The Confidentiality Agreement shall (i) survive termination of this Agreement in accordance with its terms or (ii) terminate as of the Effective Time. All covenants in this Agreement or in any instrument delivered pursuant to this Agreement shall survive until the Survival Date, except for any covenants that, by their express terms, survive beyond the Survival Date, which covenants shall then survive until the end of such other period expressly set forth herein, or if none is so expressly set forth herein, until the expiration of the applicable statute of limitations.

Section 8.02 Indemnification.

(a) Subject to the limitations set forth in this Article 8, from and after the Effective Time, Parent, the Surviving Corporation and each of their respective directors, officers, employees, agents and Affiliates (collectively, the "**Parent Indemnified Persons**") shall, solely out of the Indemnification Escrow Amount, be indemnified and held harmless for, from, and against all Losses based upon, arising out of, asserted against, resulting from, imposed on, in connection with, or otherwise in respect of:

(i) any breach of, or any misrepresentation with respect to, any representation or warranty of the Company contained in this Agreement;

(ii) any breach by the Company of, or any failure by the Company to perform, any of its covenants or other agreements contained in this Agreement;

(iii) Indemnified Taxes;

(iv) any Pre-Closing Environmental Liabilities; and

(v) any Liabilities relating to the Other Freedom Businesses.

(b) Subject to the limitations set forth in this Article 8, Parent and the Surviving Corporation agree to indemnify and hold harmless each of the Stockholders and each of their respective officers, directors, employees, agents and Affiliates (collectively, the "**Stockholder Indemnified Persons**") for, from and against any Losses based upon, arising out of, asserted against, resulting from, imposed on, in connection with, or otherwise in respect of:

(i) any breach of, or any misrepresentation with respect to, any representation or warranty of Parent or Merger Sub contained in this Agreement; and

(ii) any breach by Parent or Merger Sub of, or any failure by Parent or Merger Sub to perform, any of its covenants or other agreements contained in this Agreement.

Section 8.03 Limitations on Indemnification.

(a) Notwithstanding any provision in this Article 8 to the contrary:

(i) The Parent Indemnified Persons shall not be entitled to indemnification under Section 8.02(a)(i) until the aggregate amount of all Losses of the Parent Indemnified Persons under Section 8.02(a)(i) exceeds two hundred thousand Dollars ($200,000) (the "**Deductible**").

(ii) Notwithstanding any provision of this Agreement to the contrary, the aggregate indemnification pursuant to Section 8.02(a) shall not exceed the Indemnification Escrow Amount, and Parent, on behalf of itself and the other Parent Indemnified Persons, agrees not to seek, and shall not be entitled to recover, any Losses or other payments, in each case for claims pursuant to Section 8.02(a), in excess of such Indemnification Escrow Amount.

(b) The indemnification provided by (x) Section 8.02(a)(i) and Section 8.02(b)(i), (y) Section 8.02(a)(ii) and Section 8.02(b)(ii), with respect to covenants and agreements required to be performed or complied with at or prior to the Closing, and (z) Section 8.02(a)(iii), Section 8.02(a)(iv) and Section 8.02(a)(v) shall terminate on the Survival Date. No claims for indemnification with respect to the foregoing shall be made after the Survival Date, regardless of whether such claim arises before or after the Closing. Notwithstanding the foregoing, any claims for indemnification with respect to which the Indemnifying Party has been given written notice describing in reasonable detail the facts on which the claim for indemnification is based prior to the Survival Date shall survive the occurrence of the Survival Date.

(c) If there is determined to be any amount owing to a Parent Indemnified Person pursuant to Section 8.02(a), the Indemnification Escrow Amount shall be the sole and exclusive recourse used to satisfy any and all amounts owed to a Parent Indemnified Person therefor. No other assets shall in any respect be used to satisfy any indemnity obligations owed to any Parent Indemnified Person for claims under Section 8.02(a), and each of Parent and Merger Sub hereby agrees to waive any right or claim otherwise. For purposes of clarity, the sole and exclusive recourse for any amount owed to any Parent Indemnified Person as a result of indemnity claims under Section 8.02(a) shall be made only by payment out of the Indemnification Escrow Amount, and once the Indemnification Escrow Amount shall be depleted or released, such indemnity claims under Section 8.02(a) shall terminate.

Section 8.04 Indemnification Procedures. The following procedures shall apply to indemnification pursuant to Section 8.02(a) and Section 8.02(b):

(a) Subject to the time limitations set forth in Section 8.03(b), if any Parent Indemnified Person, on the one hand, or any Stockholder Indemnified Person, on the other hand (the "**Indemnified Party**"), has a claim or receives actual notice of any claim, or the commencement of any Action which could give rise to an obligation to provide indemnification

pursuant to this Article 8, other than a Third Party Indemnification Claim, the Indemnified Party shall promptly give notice thereof (the "**Indemnification Claim**") to Parent or the Surviving Corporation (in the case of a Stockholder Indemnified Person seeking indemnification) or to the Stockholder Representative (in the case of a Parent Indemnified Person seeking indemnification) (such notified party, the "**Indemnifying Party**"); *provided, however*, that the failure to give such prompt notice shall not prevent any Indemnified Party from being indemnified hereunder for any Losses, except to the extent that the failure to so promptly notify the Indemnifying Party materially prejudices the ability of the Indemnifying Party to defend the claim.

(b) Upon receipt of actual notice of a claim, or the commencement of any Action by a third party which could give rise to an obligation to provide indemnification pursuant to this Article 8, the Indemnified Party will give prompt written notice thereof (the "**Third Party Indemnification Claim**") to the Indemnifying Party, but in any event not later than fifteen (15) calendar days after receipt of notice of such third party claim; *provided, however*, that the failure of the Indemnified Party to so notify the Indemnifying Party within such fifteen (15)-day period shall not prevent any Indemnified Party from being indemnified for any Losses, except to the extent that the failure to so promptly notify the Indemnifying Party materially prejudices the ability of the Indemnifying Party to defend the claim.

(c) Any Indemnification Claim or Third Party Indemnification Claim will describe the claim in reasonable detail. The Indemnifying Party may elect to compromise or defend, at such Indemnifying Party's own expense and by such Indemnifying Party's own counsel, which counsel will be reasonably satisfactory to the Indemnified Party, any Third Party Indemnification Claim. If the Indemnifying Party elects to defend any Third Party Indemnification Claim, such Indemnifying Party shall within twenty (20) Business Days (or sooner, if the nature of the asserted Third Party Indemnification Claim so requires) notify the Indemnified Party of such Indemnifying Party's intent to do so, and the Indemnified Party shall cooperate, at the expense of the Indemnifying Party, in the defense against, such Third Party Indemnification Claim; *provided, however*, that (i) the Indemnified Party may, if such Indemnified Party so desires, employ counsel at such Indemnified Party's own expense to assist in the handling (but not control the defense) of any Third Party Indemnification Claim, (ii) the Indemnifying Party shall keep the Indemnified Party advised of all material events with respect to any Third Party Indemnification Claim, (iii) the Indemnifying Party shall obtain the prior written approval of the Indemnified Party before ceasing to defend against any Third Party Indemnification Claim or entering into any settlement, adjustment or compromise of such claim involving injunctive or similar equitable relief being asserted against any Indemnified Party or any of its or his Affiliates and (iv) no Indemnifying Party will, without the prior written consent of each Indemnified Party, settle or compromise or consent to the entry of any judgment in any pending or threatened action in respect of which indemnification may be sought hereunder (whether or not any such Indemnified Party is a party to such action), unless such settlement, compromise or consent by its terms obligates the Indemnifying Party to pay the full amount of the liability in connection with such Third Party Indemnification Claim and includes an unconditional release of all such Indemnified Parties from all liability arising out of such claim or Action. Notwithstanding anything contained herein to the contrary, the Indemnifying Party shall not be entitled to have sole control over (and if it, he or she so desires, the Indemnified Party shall have sole control over) the defense, settlement, adjustment or compromise of any

third party non-monetary claim that seeks an order, injunction or other equitable relief against any Indemnified Party or any of its Affiliates. If the Indemnifying Party elects not to compromise or defend against the asserted liability, fails to notify the Indemnified Party of its, his or her election as herein provided, or, at any time after assuming such defense, fails to diligently defend against such Third Party Indemnification Claim in good faith, the Indemnified Party may, at the Indemnifying Party's expense, defend against such asserted liability. In connection with any defense of a Third Party Indemnification Claim (whether by the Indemnifying Parties or the Indemnified Parties), all of the parties hereto shall, and shall cause their respective Affiliates to, cooperate in the defense or prosecution thereof and to in good faith retain and furnish such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials and appeals, as may be reasonably requested by a party hereto in connection therewith.

Section 8.05 Certain Damages. Notwithstanding any provision of this Agreement to the contrary, in no event shall any Indemnifying Party be liable with respect to, nor shall the term "Losses" cover or include, any special, exemplary, punitive, incidental or consequential damages, including economic loss, lost profits or business interruption, lost opportunity, loss of business reputation, or diminution in value, or any damage based on any type of multiple (including a multiple of earnings, revenues, or other metric), whether based on statute, contract, tort or any other legal theory, and whether or not arising from the Indemnifying Party's sole, joint or concurrent negligence, strict liability or other fault, except to the extent such damages are payable by an Indemnified Party to a third party.

Section 8.06 Duty to Mitigate; Reduction in Losses; No Double Recovery.

(a) Each party shall take commercially reasonable steps to mitigate any Loss upon a responsible executive officer of such party becoming aware of any event which would reasonably be expected to, or does, give rise thereto.

(b) The amount of any Loss for which indemnification is provided under this Article 8 shall be determined net of (i) any amounts actually recovered by the Indemnified Party under insurance policies, indemnities or other reimbursement arrangements with respect to such Loss, increases in insurance premiums resulting from such Losses or other cost incurred in the recovery of such proceeds and (ii) any Tax benefit actually realized by the Indemnified Party arising from such Losses in the year in which the indemnity payment with respect to such Loss is made, or any preceding period (such amounts referred to in clauses (i) or (ii), a "**Reimbursement**"), in each case as an offset against such Loss. It is understood and agreed that nothing in the foregoing sentence requires any Indemnified Party to maintain any particular insurance policy in effect, except for the Environmental Insurance Policy which Parent shall cause to remain in effect at least through the Survival Date. In the event that an Indemnified Party seeks indemnification for a Loss for which recovery may be reasonably sought from an insurance company, without limitation of the Indemnifying Party's indemnification obligations hereunder, the Indemnified Party agrees to use commercially reasonable efforts to (or cause, as applicable, its Affiliates to use commercially reasonable efforts to) cooperate with the Indemnifying Party (at the Indemnifying Party's expense) to enable the Indemnifying Party to seek recover from the insurance company to the extent such recoveries would reduce the amount to be paid by the other party pursuant to this Article 8. If any

Reimbursement is obtained subsequent to payment to a Parent Indemnified Person in respect of any Losses, then such Reimbursement shall be promptly paid over to the Stockholder Representative for distribution to the Stockholders.

Section 8.07 Exclusive Remedy. Except with respect to fraud, each of the parties hereto acknowledges and agrees that, following the Effective Time of the Merger, the indemnification provisions in this Article 8 shall be the sole and exclusive remedy of the Indemnified Parties with respect to the subject matter of this Agreement and the other Transaction Documents.

Section 8.08 Escrow Release.

(a) Any payment to a Parent Indemnified Person in respect of any claim for indemnification under Section 8.01 shall be paid by release of funds to such Parent Indemnified Person from the Indemnity Escrow Amount by the Escrow Agent within two (2) Business Days after the date of the final determination of any sums due and owning under this Article 8.

(b) On the Survival Date, the Escrow Agent shall release all or a portion of the remaining Indemnity Escrow Amount to the Paying Agent, for the benefit of the holders of shares of Company Common Stock and Warrants, and the Paying Agent shall distribute such amounts to holders of shares of Company Common Stock and Warrants in the manner provided in Article 2 such that, following such release, the remaining Indemnity Escrow Amount, if any, equals the amount of claims for indemnification by a Parent Indemnified Person under this Article 8 prior to the Survival Date but not yet resolved (such unresolved claims, the "**Unresolved Indemnification Claims**").

(c) To the extent applicable, the portion of the Indemnity Escrow Amount retained for the Unresolved Indemnification Claims shall be released by the Escrow Agent (to the extent not utilized to pay the applicable Parent Indemnified Persons for any such claims resolved in favor of such Parent Indemnified Persons) upon their resolution in accordance with this Article 8 and the terms of the Escrow Agreement.

(d) Upon the final determination of any amounts to be paid from the Indemnity Escrow Amount pursuant to this Section 8.08, Parent and the Stockholder Representative shall execute joint written instructions to the Escrow Agent instructing the Escrow Agent to disburse the funds for the Indemnity Escrow Amount in accordance with this Section 8.08 and the Escrow Agreement.

ARTICLE 9

MISCELLANEOUS

Section 9.01 Amendment or Supplement. At any time prior to the Effective Time, this Agreement may be amended or supplemented in any and all respects, whether before or after receipt of the Company Stockholder Approval, by written agreement of the parties hereto, by action taken by the respective boards of directors of the parties hereto; *provided*, *however*, that following receipt of the Company Stockholder Approval, there shall be no amendment or

change to the provisions hereof which by Law would require further approval by the stockholders of the Company without such approval.

Section 9.02 Extension of Time; Waiver. At any time prior to the Effective Time, any party may, subject to applicable Law, (a) waive any inaccuracies in the representations and warranties of any other party hereto contained herein or in any document delivered pursuant hereto, (b) extend the time for the performance of any of the obligations or acts of any other party hereto or (c) waive compliance by the other party with any of the agreements contained herein or, except as otherwise provided herein, waive any of such party's conditions. Notwithstanding the foregoing, no failure or delay by the Company, Parent or Merger Sub in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party. Notwithstanding the foregoing, Parent may not make any such waivers or extensions on behalf of Merger Sub, and vice-versa.

Section 9.03 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned, in whole or in part, by operation of Law or otherwise, by any of the parties without the prior written consent of the other parties; *provided*, *however*, that Parent or Merger Sub may, without the consent of the Company, assign its rights, interests or obligations under this Agreement to any Subsidiary of Parent or as collateral to any lender providing financing to Parent or Merger Sub in connection with the Merger. No assignment shall relieve the assigning party of its obligations hereunder. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties hereto and their respective successors and permitted assigns. Any purported assignment not permitted under this Section 9.03 shall be null and void.

Section 9.04 Governing Law; Jurisdiction; Service of Process.

(a) This Agreement, and all claims or causes of action (whether in contract or tort) that may be based upon, arise out of or relate to this Agreement or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement) shall be governed by, and construed, interpreted and enforced in accordance with, the Laws of the State of Delaware, without regard to conflict of laws principles.

(b) Any legal action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby shall be heard and determined exclusively in the Court of Chancery of the State of Delaware, or, in the event (but only in the event) that such court does not have subject matter jurisdiction over such action or proceeding, in the Superior Court of the State of Delaware located in the County of New Castle, or, in the event (but only in the event) that such court does not have subject matter jurisdiction over such action or proceeding, in the federal courts of the United States of America located in the State of Delaware. Each party hereto hereby irrevocably (i) submits to the exclusive jurisdiction of the Court of Chancery of the State of Delaware, the Superior Court of the State of Delaware or

federal courts of the United States of America located in the State of Delaware in respect of any legal action, suit or proceeding arising out of or relating to this Agreement and (ii) waives, and agrees not to assert, as a defense in any such action, suit or proceeding, any claim that it is not subject personally to the jurisdiction of such courts, that its property is exempt or immune from attachment or execution, that the action, suit or proceeding is brought in an inconvenient forum, that the venue of the action, suit or proceeding is improper or that this Agreement or the transactions contemplated hereby may not be enforced in or by such courts.

(c) Each party hereto agrees that notice or the service of process in any action, suit or proceeding arising out of or relating to this Agreement shall be properly served or delivered if delivered in the manner contemplated by Section 9.07.

(d) The consents to jurisdiction set forth in this Section 9.04 shall not constitute general consents to service of process in the State of Delaware and shall have no effect for any purpose except as provided in this Section 9.04 and shall not be deemed to confer rights on any Person other than the parties hereto. The parties hereto agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable law.

Section 9.05 WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 9.06 Specific Performance. The parties agree that irreparable damage for which monetary damages, even if available, would not be an adequate remedy, would occur in the event that the parties hereto do not perform the provisions of this Agreement (including failing to take such actions as are required of it hereunder to consummate this Agreement) in accordance with its specified terms or otherwise breach such provisions. The parties acknowledge and agree that the parties shall be entitled to an injunction, specific performance and other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled at law or in equity. Each of the parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that the other parties have an adequate remedy at law or an award of specific performance is not an appropriate remedy for any reason at law or equity. Any party seeking an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement shall not be required to provide any bond or other security in connection with any such order or injunction. The remedies available to the Company pursuant to this Section 9.06 shall be in addition to any other remedy to which it is entitled at law or in equity.

Section 9.07 Notices. All notices and other communications under this Agreement shall be in writing and shall be deemed given (a) when delivered personally by hand (with written confirmation of receipt), (b) when sent by facsimile (with written confirmation of transmission), or (c) one (1) Business Day following the day sent by overnight courier (with

written confirmation of receipt), in each case at the following addresses and facsimile numbers (or to such other address or facsimile number as a party may have specified by notice given to the other parties pursuant to this provision):

If to Parent or Merger Sub, to:

2100 Trust, LLC
396 Washington Street, Suite 307
Wellesley, Massachusetts 02481
Attention: Aaron Kushner
Facsimile: (208)485-4839

with a copy (which shall not constitute notice) to:

Latham & Watkins LLP
200 Clarendon Street
Boston, Massachusetts 02116
Attention: Johan V. Brigham, Esq.
Julie A. Scallen, Esq.
Facsimile: (617) 948-6001

If to the Company, to:

Freedom Communications Holdings, Inc.
17666 Fitch
Irvine, CA 92614
Attention: President and Chief Executive Officer
Facsimile: (949) 798-3524

with a copy (which shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP
300 S. Grand Avenue
Suite 3400
Los Angeles, CA 90071
Attention: Brian J. McCarthy, Esq.
Facsimile: (213) 687-5600

Section 9.08 Severability. If any term or other provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other terms, provisions and conditions of this Agreement shall nevertheless remain in full force and effect. No party hereto shall assert, and each party shall cause its respective Affiliates not to assert, that this Agreement or any part hereof is invalid, illegal or unenforceable. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by applicable law in an acceptable manner to the end that the transactions originally contemplated hereby are fulfilled to the extent possible.

Notwithstanding the foregoing, the parties intend that the remedies and limitations thereon contained in Article 7 be construed as an integral provision of this Agreement and that such remedies and limitations shall not be severable in any manner that increases a party's liability or obligations hereunder.

Section 9.09 No Recourse. This Agreement may only be enforced against, and any claims or causes of action that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement may only be made against the entities that are expressly identified as parties hereto and no past, present or future, direct or indirect, equityholder, controlling person, Affiliate, director, officer, employee, incorporator, member, manager, partner, shareholder, agent, attorney or representative of any party hereto shall have any liability for any obligations or liabilities of the parties to this Agreement or for any claim based on, in respect of, or by reason of, the transactions contemplated hereby.

Section 9.10 Entire Agreement; No Third-Party Beneficiaries. This Agreement, including the Company Disclosure Schedule, the Parent Disclosure Schedule and the exhibits and schedules hereto, the other Transaction Documents together with the other instruments referred to herein and therein, including the Confidentiality Agreement, (a) constitute the entire agreement among the parties with respect to the subject matter hereof and thereof, and supersede all other prior agreements and understandings, both written and oral, among the parties and their Affiliates, or any of them, with respect to the subject matter hereof and thereof and (b) except for the provisions set forth in Section 5.09 and Section 9.13 of this Agreement, are not intended to and shall not confer upon any Person other than the parties hereto and thereto any rights or remedies hereunder.

Section 9.11 Obligations of Parent and of the Company. Whenever this Agreement requires a Subsidiary of Parent to take any action, such requirement shall be deemed to include an undertaking on the part of Parent to cause such Subsidiary to take such action. Whenever this Agreement requires a Subsidiary of the Company to take any action, such requirement shall be deemed to include an undertaking on the part of the Company to cause such Subsidiary to take such action.

Section 9.12 Counterparts and Facsimile. This Agreement may be executed in multiple counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which shall together be considered one and the same agreement, and shall become effective when counterparts have been signed by each of the parties and delivered to the other parties. Delivery of an executed counterpart of a signature page to this Agreement by facsimile transmission or by electronic transmission of a .pdf or other electronic file shall be as effective as delivery of a manually signed counterpart of this Agreement.

Section 9.13 The Stockholder Representative.

(a) Effective upon the Closing Date, Angelo, Gordon Management LLC (the "**Stockholder Representative**") is hereby irrevocably appointed, authorized, empowered and directed to act as the agent, representative, proxy and attorney-in-fact of the Company's stockholders for the purpose of effecting the consummation of the transactions

contemplated by this Agreement and the Escrow Agreement, and exercising, on behalf of all of the holders of the Company Common Stock (the "**Stockholders**"), the rights and powers of the Stockholders hereunder and thereunder. Without limiting the generality of the foregoing, the Stockholder Representative shall have full power and authority, and is hereby directed, for and on behalf of the Stockholders, to take such action, and to exercise such rights, power and authority, as are authorized, delegated and granted to the Stockholder Representative hereunder in connection with the transactions contemplated hereby and by the Escrow Agreement and to exercise such rights, power and authority as are incidental thereto. Without limiting the generality of the foregoing, the Stockholder Representative is authorized and empowered to (i) take all actions on behalf of each Stockholder relating to the determination of the Final Closing Statement in accordance with the provisions of Section 2.12 hereof, (ii) give and receive notices and communications with respect to the Escrow Agreement and to authorize disbursements from the Escrow Amount in satisfaction of claims by Parent, in each case in accordance with the provisions of this Agreement, (iii) take all actions on behalf of each Stockholder in connection with any claims made hereunder (including in connection with any and all claims for indemnification brought under Article 8 hereof), and to defend or settle such claims, and (iv) take all other actions to be taken by or on behalf of any Stockholder and exercise any and all rights that any Stockholder is permitted or required to do or exercise under this Agreement, including the settlement or compromise of any dispute or controversy.

(b) The appointment and agency created hereby is irrevocable, and shall be deemed to be coupled with an interest. Adoption of this Agreement by the Stockholders pursuant to the Company Stockholder Approval shall constitute agreement to be bound by the actions of the Stockholder Representative taken hereunder. In addition, the Stockholder's Representative shall have all such incidental powers as may be necessary or desirable to carry into effect the provisions of this Section 9.13, including, at the expense of the Stockholders, to retain attorneys, accountants and other advisors to assist the Stockholder Representative in the performance of its duties hereunder.

(c) In the event of the death, disability, resignation or inability to serve of the Stockholder Representative for any reason, the Stockholders (by action of Stockholders holding a majority of the outstanding shares of Company Common Stock) shall have full power and authority to appoint a replacement or successor representative for the Stockholders who shall, from and after the effective date of such appointment, be authorized and empowered to act as the Stockholder Representative for all purposes under this Agreement. Any successor to a Stockholder Representative shall for purposes of this Agreement be deemed to be, for the time of the appointment thereof, a Stockholder Representative and from and after such time, the term "Stockholder Representative" as used herein shall be deemed to refer to any successor. No appointment of a successor shall be effective unless such successor agrees in writing to be bound by the terms of this Agreement.

(d) The Stockholder Representative shall not have any liability to the Stockholders or to Parent for any act done or omitted hereunder as the Stockholder Representative while acting in good faith and in the exercise of reasonable judgment, and any act done or omitted pursuant to the advice of counsel shall be conclusive evidence of such good faith. The Stockholders shall severally indemnify the Stockholder Representative and hold the Stockholder Representative harmless against any loss, liability or expense incurred without gross

negligence or bad faith on the part of the Stockholder Representative and arising out of or in connection with the acceptance or administration by the Stockholder Representative of its duties hereunder. The Stockholder Representative shall be entitled to be reimbursed by the Stockholders for reasonable expenses incurred in the performance of its duties hereunder (including, without limitation, the reasonable fees of counsel, accountants and advisors) but shall look first to the Stockholder Representative Expense Amount.

(e) The Stockholder Representative shall be entitled to withdraw cash amounts from the Stockholder Representative Expense Amount in reimbursement for reasonable and documented out of pocket fees and expenses (including legal, accounting and advisors' fees and expenses, if applicable) incurred by the Stockholder Representative in performing its obligations under this Agreement. Following full performance and discharge of the Stockholder Representative's duties hereunder, any portion of the Stockholder Representative Expense Amount remaining shall be disbursed to the Paying Agent, for the benefit of the former holders of shares of Company Common Stock and Warrants, and the Paying Agent shall distribute such amount to the former holders of shares of Company Common Stock and Warrants in the manner provided in Article 2 of this Agreement. The Stockholder Representative shall execute written instructions to the Escrow Agent instructing the Escrow Agent to disburse the funds from the Stockholder Representative Expense Amount in accordance with this Section 9.13 and the Escrow Agreement.

(f) The Stockholder Representative shall have reasonable access to relevant information about Parent, the Surviving Corporation and their respective Subsidiaries and the reasonable assistance of Parent's, the Surviving Corporation's and their respective Subsidiaries' employees for purposes of performing its duties and exercising its rights hereunder *provided*, *however*, that such access shall not unreasonably interfere with the business or operations of Parent, the Surviving Corporation or their respective Subsidiaries, and; *provided*, *further, however*, that the Stockholder Representative shall treat confidentially and not disclose any nonpublic information from or about the Parent, the Surviving Corporation or the Subsidiaries to anyone (except on a need to know basis to individuals who agree to treat such information confidentially).

(g) The Company agrees that the provisions set forth in this Section 9.13 shall in no way impose any liability or obligation on Parent other than those explicitly set forth in this Agreement. In particular, notwithstanding in any case any notice received by Parent to the contrary, Parent shall be fully protected in relying upon and shall be entitled (i) to rely upon actions, decisions and determinations of the Stockholder Representative and (ii) to assume that all actions, decisions and determinations of the Stockholder Representative are fully authorized and binding upon the Stockholder Representative and the Stockholders.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

FREEDOM COMMUNICATIONS HOLDINGS, INC.

By: _____
Name: Mitchell Stern
Title: President & CEO

2100 TRUST, LLC

By: _____
Name:
Title:

2100 FREEDOM, INC.

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

FREEDOM COMMUNICATIONS HOLDINGS, INC.

By: _____
Name:
Title:

2100 TRUST, LLC

By: 
Name: Aaron Kushner
Title: CEO

2100 FREEDOM, INC.

By: 
Name: Aaron Kushner
Title: CEO

Exhibit A

Retained Businesses

[see attached]

Exhibit A

Retained Business

Retained Businesses includes: (i) the newspapers, magazines and other print publications related to the Orange County Register, the Pacific Region (including Victorville, California; Marysville, California; Porterville; California; and Yuma, Arizona), and Colorado Springs, including, without limitation, those listed below; and (ii) the websites listed on Annex F-2 of the Company Disclosure Schedule.

Orange County Register

1. The Orange County Register
2. Aliso Viejo News
3. Anaheim Bulletin
4. Anaheim Hills News
5. Canyon Life
6. Capistrano Valley News
7. Coast
8. Coast Kids
9. Dana Point News
10. Excélsior
11. Fountain Valley View
12. Fullerton News Tribune
13. Home and Garden Sunday Preferred
14. Ladera Post
15. Laguna News-Post
16. Laguna Niguel News
17. Laguna Woods Globe
18. OC Saver
19. Orange City News
20. OrangeCounty.com
21. Placentia News-Times
22. RSM News
23. Saddleback Valley News (SAD)
24. Saddleback Valley News (MV)
25. San Clemente Sun Post News
26. Segerstrom Center for the Arts
27. South Coast Repertory
28. Star Progress
29. The Current
30. The Huntington Beach Wave
31. The Irvine World News/OC Post
32. The Tustin News
33. Yorba Linda Star

Pacific Region

1. Appeal Democrat
2. BAFB Life
3. Best of Yuba-Sutter
4. Colusa Sun-Herald
5. Corning Observer
6. Explore 99 Things
7. Medical Directory
8. Orland Press-Register
9. Smart Saver
10. Smart Shopper
11. Willows Journal
12. Y-S Fair
13. Noticiero Semanal
14. Porterville Recorder
15. South Valley Review
16. Auto Finder
17. AV Review
18. Barstow, Desert Dispatch
19. Daily Press
20. El Mojave
21. Hesperia Star
22. Review
23. The Leader
24. Ag in Yuma (f/k/a *Desert Farm & Ranch*)
25. Bajo El Sol
26. Business in Yuma (f/k/a *Yuma Business Direct*)
27. Health Connections
28. Healthy Yuma
29. Living in Yuma
30. Marketplace
31. PAWS
32. Raising Yuma
33. RE Weekly
34. Southwest Living
35. Super Shopper
36. Visiting in Yuma
37. Winter Visitor Connection
38. Yuma Sun

Colorado Springs

1. Fresh Ink Weekend/Sunday Preferred
2. Military Guide - Welcome Home
3. Pikes Peak Parent Magazine
4. Springs Savings
5. Springs Values
6. The Gazette
7. TV Magazine

Exhibit B

Form of Escrow Agreement

[see attached]

EXHIBIT B

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this "Agreement") is entered into as of _____, 2012, by and among 2100 Trust, LLC, a Delaware limited liability company ("2100 Trust"), and Angelo, Gordon Management LLC, as Stockholder Representative under the Merger Agreement referred to below (the "Stockholder Representative," and together with 2100 Trust, sometimes referred to individually as a "Party" and collectively as the "Parties"), and JPMorgan Chase Bank, NA (the "Escrow Agent").

WHEREAS, Freedom Communications Holdings, Inc., a Delaware corporation ("FCHI"), 2100 Trust and 2100 Freedom, Inc., a Delaware corporation and wholly owned subsidiary of 2100 Trust ("Merger Sub"), have entered into an Agreement and Plan of Merger (the "Merger Agreement"), dated as of June 9, 2012, pursuant to which, and on the terms and subject to the conditions set forth therein, FCHI will be merged with and into Merger Sub with FCHI surviving the merger as a wholly owned subsidiary of 2100 Trust.

WHEREAS, the Merger Agreement provides that, at the Closing (as defined in the Merger Agreement) which such date, when determined, shall be provided to the Escrow Agent in writing, 2100 Trust will deposit the Indemnity Escrow Deposit, the Severance Escrow Deposit and the Stockholder Representative Expense Deposit (each as defined below) with Escrow Agent, and further provides that 2100 Trust and the Stockholder Representative will enter into this Agreement with Escrow Agent.

WHEREAS, Escrow Agent is willing to act as escrow agent on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants hereinafter set forth, the Parties and the Escrow Agent agree as follows:

1. **Appointment**. The Parties hereby appoint Escrow Agent as their escrow agent for the purposes set forth herein, and Escrow Agent hereby accepts such appointment under the terms and conditions set forth herein.

2. **Fund**. (a) 2100 Trust agrees to deposit with Escrow Agent by wire transfer of immediately available funds (i) the sum of Two Million Dollars ($2,000,000) (the "Indemnity Escrow Deposit"), (ii) the sum of [_____] ($_____) (the "Severance Escrow Deposit") and (iii) the sum of Two Hundred Fifty Thousand Dollars ($250,000) (the "Stockholder Representative Expense Escrow Deposit"). Escrow Agent shall hold each of the Indemnity Escrow Deposit, the Severance Escrow Deposit and the Stockholder Representative Expense Escrow Deposit in separate segregated accounts, with each such account being referred to herein, respectively, as the "Indemnity Escrow Account," the "Severance Escrow Account" and the "Stockholder Representative Expense Escrow Account," and all such accounts being referred to herein, collectively, as the "Escrow Accounts." Escrow Agent shall invest and reinvest the amounts deposited into each Escrow Account and the proceeds thereof (such amounts with respect to the Indemnity Escrow Deposit being referred to herein as the "Indemnity Escrow Fund," such amounts with respect to the Severance Escrow Deposit being referred to herein as the "Severance Escrow Fund," and such amounts with respect to the Stockholder Representative

Expense Escrow Deposit being referred to herein as the "Stockholder Representative Expense Escrow Fund," and all such amounts being referred to herein, collectively, as the "Fund") in a JPMorgan Money Market Deposit Account ("MMDA"), or a successor or similar investment offered by Escrow Agent. The Fund shall be held by the Escrow Agent for the benefit of the Parties. Except as expressly set forth in this Escrow Agreement, the Parties intend that the Fund shall not be subject to lien or attachment by any creditor of any Party hereto and shall not be used by, the Escrow Agent to set off any obligations of any Party hereto owing to the Escrow Agent in any capacity.

(b) MMDA have rates of compensation that may vary from time to time based upon market conditions. The Parties recognize and agree that instructions to make any other investment ("Alternative Investment"), must be in writing and executed by an Authorized Representative (as defined in Section 3 below) of each Party, and shall specify the type and identity of the investments to be purchased and/or sold. The Escrow Agent is hereby authorized to execute purchases and sales of investments through the facilities of its own trading or capital markets operations or those of any affiliated entity. The Escrow Agent or any of its affiliates may receive compensation with respect to any Alternative Investment directed hereunder including without limitation charging any applicable agency fee in connection with each transaction. Subject to Section 4, Escrow Agent will not provide supervision, recommendations or advice relating to either the investment of moneys held in the Fund or the purchase, sale, retention or other disposition of any investment described herein, and Escrow Agent shall not have any liability for any loss in an investment made pursuant to the terms of this Agreement. Market values, exchange rates and other valuation information (including without limitation, market value, current value or notional value) of any Alternative Investment furnished in any report or statement may be obtained from third party sources and is furnished for the exclusive use of the Parties. Escrow Agent has no responsibility whatsoever to determine the market or other value of any Alternative Investment and makes no representation or warranty, express or implied, as to the accuracy of any such valuations or that any values necessarily reflect the proceeds that may be received on the sale of an Alternative Investment. Escrow Agent shall not have any liability for any loss sustained as a result of any investment made pursuant to the terms of this Agreement or as a result of any liquidation of any investment prior to its maturity or for the failure of an Authorized Representative of the Parties to give Escrow Agent instructions to invest or reinvest the Fund. Escrow Agent shall have the right to liquidate any investments held in order to provide funds necessary to make required payments under this Agreement. Solely for tax purposes, all interest or other income earned under this Agreement shall be allocated to 2100 Trust and reported by Escrow Agent to the IRS, or any other taxing authority, on IRS Form 1099 or 1042S (or other appropriate form) as income earned from the Escrow Deposit by 2100 Trust whether or not said income has been distributed during such year. Escrow Agent shall withhold any taxes it deems appropriate in the absence of proper tax documentation or as required by law, and shall remit such taxes to the appropriate authorities. The Parties hereby represent to Escrow Agent that no other tax reporting of any kind is required given the underlying transaction giving rise to this Agreement.

3. **Disposition and Termination**. (a) The Fund shall be disposed of as follows:

(i) *Indemnity Escrow Fund*. Upon receipt by Escrow Agent of a joint written instruction from 2100 Trust and the Stockholder Representative from time to time, in addition to the payment instructions (if not provided herein), specifying (x) that such instruction is being given pursuant to Section 2.12, Section 5.18 or Section 8.08 of the Merger Agreement in respect of a disbursement from the Indemnity Escrow Fund, (y) the person(s) to whom such disbursement is to be made and (z) the amount of such disbursement, Escrow Agent shall promptly disburse such amount from the Indemnity Escrow Account as provided in such instructions and otherwise in accordance with this Section 3; provided that, if the amount of any payment to be made with respect to a disbursement from the Indemnity Escrow Fund exceeds the amount that is available in the Indemnity Escrow Account, Escrow Agent is authorized to make payment to the applicable persons(s) as provided in such instructions of the total amount available therefore out of the Indemnity Escrow Account; provided further, however, with respect to disbursements to multiple persons, the revised disbursement amounts shall be provided to the Escrow Agent in writing by 2100 Trust and the Stockholder Representative. In no event shall any disbursement pursuant to this Section 3(a)(i) be made from the Severance Escrow Fund or the Stockholder Representative Expense Escrow Fund.

(ii) *Severance Escrow Fund*. Upon receipt by Escrow Agent of a joint written instruction from 2100 Trust and the Stockholder Representative from time to time, in addition to the payment instructions (if not already provided herein) specifying (x) that such instruction is being given pursuant to Section 5.11 of the Merger Agreement in respect of a disbursement from the Severance Escrow Fund, (y) the person(s) to whom such disbursement is to be made and (z) the amount of such disbursement, Escrow Agent shall promptly disburse such amount from the Severance Escrow Account as provided in such instructions and otherwise in accordance with this Section 3; provided that, if the amount of any payment to be made with respect to a disbursement from the Severance Escrow Fund exceeds the amount that is available in the Severance Escrow Account, Escrow Agent is authorized to make payment to the applicable persons(s) as provided in such instructions of the total amount available therefore out of the Severance Escrow Account; provided further, however, with respect to disbursements to multiple persons, the revised disbursement amounts shall be provided to the Escrow Agent in writing by 2100 Trust and the Stockholder Representative. In no event shall any disbursement pursuant to this Section 3(a)(ii) be made from the Indemnity Escrow Fund or the Stockholder Representative Expense Escrow Fund.

(iii) *Stockholder Representative Expense Escrow Fund.* Pursuant to Section 9.13(e) of the Merger Agreement, the Stockholder Representative is entitled to withdraw amounts from time to time from the Stockholder Representative Expense Escrow Account in reimbursement for reasonable and documented out of pocket fees and expenses (including legal, accounting and advisor fees and expenses, if applicable) incurred by the Stockholder Representative in performing its obligations under the Merger Agreement with any amounts remaining in the Stockholder Representative Expense Escrow Account after all such fees and expenses have been fully paid and discharged to be disbursed to or for the account of the Stockholder Representative for distribution to FCHI's former securityholders. Accordingly, upon receipt by Escrow Agent of written instructions from the Stockholder Representative from time to time, in addition to the payment instructions (if not already provided herein), specifying (w) that such instruction is being given in respect of a disbursement from the Stockholder Representative Expense Escrow Fund, (x) that the Stockholder Representative is entitled to such disbursement in accordance with the provisions of Section 9.13(e) of the Merger Agreement, (y) the person(s) to whom such disbursement is to be made and (z) the amount of such disbursement, Escrow Agent shall promptly disburse such amount from the Stockholder Representative Expense Escrow Account as provided in such instructions and otherwise in accordance with this Section 3; provided that, if the amount of any payment to be made with respect to a disbursement from the Stockholder Representative Expense Escrow Fund exceeds the amount that is available in the Stockholder Representative Expense Escrow Account, Escrow Agent is authorized to make payment to the applicable persons(s) as provided in such instructions of the total amount available therefore out of the Stockholder Representative Expense Escrow Account; provided further, however, with respect to disbursements to multiple persons, the revised disbursement amounts shall be provided to the Escrow Agent in writing by 2100 Trust and the Stockholder Representative. In no event shall any disbursement pursuant to this Section 3(a)(iii) be made from the Indemnity Escrow Fund or the Severance Escrow Fund.

(iv) Upon receipt by Escrow Agent of a final order, decree or judgment of a court of competent jurisdiction (accompanied by a certificate from the prevailing party indicating that the order is final and non-appealable), which shall set forth the manner in which the Fund shall be disbursed, in the event any disagreement between the Parties is not resolved by mutual agreement of the Parties.

Upon delivery of all amounts comprising the Fund by Escrow Agent, this Agreement shall terminate, subject to the provisions of Section 6.

(b) All instructions, including any instructions setting forth, claiming, containing, objecting to, or in any way related to the transfer or distribution of the Fund, must be in writing, executed by the appropriate Party or Parties as evidenced by the signatures of the person or persons signing this Agreement or one of their designated persons as set forth in Schedule 1 (each an "Authorized Representative"), and delivered to Escrow Agent only by confirmed facsimile on a Business Day only at the fax number set forth in Section 8 below. No instruction for or related to the transfer or distribution of the Fund shall be deemed delivered and effective unless Escrow Agent actually shall have received it on a Business Day by facsimile only at the fax number set forth in Section 8 and as evidenced by a confirmed transmittal to the Party's or Parties' transmitting fax number and Escrow Agent has been able to satisfy any applicable security procedures as may be required hereunder. Escrow Agent shall not be liable to any Party or other person for refraining from acting upon any instruction for or related to the transfer or distribution of the Fund if delivered to any other fax number. The Parties each acknowledge that Escrow Agent is authorized to use the following funds transfer instructions to disburse any funds due to 2100 Trust and/or the Stockholder Representative, respectively, without a verifying call-back as set forth in Section 3(c) below:

2100 Trust:	Bank Name:	Stockholder Representative:	Bank Name:
	Bank Address:		Bank Address:
	ABA number:		ABA number:
	Account name:		Account name:
	Account number:		Account number:

Additionally, the Parties agree that repetitive funds transfer instructions may be given to Escrow Agent for one or more beneficiaries where only the date of the requested transfer, the amount of funds to be transferred, and/or the description of the payment shall change within the repetitive instructions ("Standing Settlement Instructions"). Any such Standing Settlement Instructions shall be set up in writing in advance of any actual transfer request and shall contain complete funds transfer information (as set forth above) for the beneficiary. Any such set-up of Standing Settlement Instructions (other than those established concurrently with the execution of this Agreement), and any changes in existing set-up, shall be confirmed by means of a verifying callback to an Authorized Representative. Standing Settlement Instructions will continue to be followed until cancelled by 2100 Trust and the Stockholder Representative jointly in a writing signed by an Authorized Representative and delivered to Escrow Agent in accordance with this Section. Once set up as provided herein, Escrow Agent may rely solely upon such Standing Settlement Instructions and all identifying information set forth therein for each beneficiary. Each Party agrees that any Standing Settlement Instructions shall be effective as the funds transfer instructions of such Party or the Parties, as applicable, without requiring a verifying callback, as set forth in Section 3(c) below, if such Standing Settlement Instructions are consistent with previously authenticated Standing Settlement Instructions for that beneficiary.

(c) In the event any other funds transfer instructions are set forth in a permitted instruction from a Party or the Parties in accordance with Section 3(b), Escrow Agent is authorized to seek confirmation of such funds transfer instructions by a single telephone call-back to one of the Authorized Representatives, and Escrow Agent may rely upon the

confirmation of anyone purporting to be that Authorized Representative. The persons and telephone numbers designated for call-backs may be changed only in a writing executed by Authorized Representatives of the applicable Party and actually received by Escrow Agent via facsimile. Except as set forth in Section 3(b) above, no funds will be disbursed until an Authorized Representative is able to confirm such instructions by telephone callback. Escrow Agent and the beneficiary's bank in any funds transfer may rely solely upon any account numbers or similar identifying numbers provided by the Parties and confirmed by an Authorized Representative.

(d) The Parties acknowledge that there are certain security, corruption, transmission error and access availability risks associated with using open networks such as the Internet and the Parties hereby expressly assume such risks.

(e) As used in this Section 3, "Business Day" shall mean any day other than a Saturday, Sunday or any other day on which Escrow Agent located at the notice address set forth below is authorized or required by law or executive order to remain closed. The Parties acknowledge that the security procedures set forth in this Section 3 are commercially reasonable.

4. **Escrow Agent**. Escrow Agent shall have only those duties as are specifically and expressly provided herein, which shall be deemed purely ministerial in nature, and no other duties shall be implied. Escrow Agent has no knowledge of, nor any requirement to comply with, the terms and conditions of any other agreement between the Parties, nor shall Escrow Agent be required to determine if any Party has complied with any other agreement. Notwithstanding the terms of any other agreement between the Parties, the terms and conditions of this Agreement shall control the actions of Escrow Agent. Escrow Agent may conclusively rely upon any written notice, document, instruction or request delivered by the Parties believed by it to be genuine and to have been signed by an Authorized Representative(s), as applicable, without inquiry and without requiring substantiating evidence of any kind and Escrow Agent shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document, notice, instruction or request. Escrow Agent shall not be liable for any action taken, suffered or omitted to be taken by it in good faith except to the extent that Escrow Agent's gross negligence or willful misconduct was the cause of any direct loss to either Party. Escrow Agent may execute any of its powers and perform any of its duties hereunder directly or through affiliates or agents. In the event Escrow Agent receives instructions, claims or demands from any Party hereto which conflict with the provisions of this Agreement, or if Escrow Agent receives conflicting instructions from the Parties, Escrow Agent shall be entitled either to (a) refrain from taking any action until it shall be given a joint written direction executed by Authorized Representatives of the Parties which eliminates such conflict or by a final court order or (b) file an action in interpleader. Escrow Agent shall have no duty to solicit any payments which may be due it or the Fund, including, without limitation, the Escrow Deposit nor shall the Escrow Agent have any duty or obligation to confirm or verify the accuracy or correctness of any amounts deposited with it hereunder. Anything in this Agreement to the contrary notwithstanding, in no event shall Escrow Agent be liable for special, incidental, punitive, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

5. **Resignation; Succession**. Escrow Agent may resign and be discharged from its duties or obligations hereunder by giving thirty (30) days advance notice in writing of such resignation to the Parties. Escrow Agent's sole responsibility after such thirty (30) day notice period expires shall be to hold the Fund (without any obligation to reinvest the same) and to deliver the same to a designated substitute escrow agent, if any, appointed by the Parties, or such other person designated by the Parties, or in accordance with the directions of a final court order, at which time of delivery, Escrow Agent's obligations hereunder shall cease and terminate. If prior to the effective resignation date, the Parties have failed to appoint a successor escrow agent, or to instruct the Escrow Agent to deliver the Fund to another person as provided above, at any time on or after the effective resignation date, Escrow Agent either (a) may interplead the Fund with a court of competent jurisdiction; or (b) appoint a successor escrow agent of it own choice. Any appointment of a successor escrow agent shall be binding upon the Parties and no appointed successor escrow agent shall be deemed to be an agent of Escrow Agent. Escrow Agent shall deliver the Fund to any appointed successor escrow agent, at which time Escrow Agent's obligations under this Agreement shall cease and terminate. Any entity into which Escrow Agent may be merged or converted or with which it may be consolidated, or any entity to which all or substantially all the escrow business may be transferred, shall be the Escrow Agent under this Agreement without further act.

6. **Compensation**. 2100 Trust agrees to pay Escrow Agent upon execution of this Agreement and from time to time thereafter reasonable compensation for the services to be rendered hereunder, which unless otherwise agreed by 2100 Trust and the Escrow Agent in writing, shall be as described in Schedule 2.

7. **Indemnification and Reimbursement**. 2100 Trust agrees to indemnify, defend, hold harmless, pay or reimburse Escrow Agent and its affiliates and their respective successors, assigns, directors, agents and employees (the "Indemnitees") from and against any and all losses, damages, claims, liabilities, penalties, judgments, settlements, litigation, investigations, costs or expenses (including, without limitation, the reasonable fees and expenses of outside counsel and experts and their staffs and all expense of document location, duplication and shipment) (collectively "Losses"), arising out of or in connection with (a) Escrow Agent's performance of this Agreement, except to the extent that such Losses are determined by a court of competent jurisdiction through a final order to have been caused by the gross negligence, willful misconduct, or bad faith of such Indemnitee; and (b) Escrow Agent's following any instructions or directions, whether joint or singular, from the Parties received in accordance with this Agreement. One-half of any actual out-of-pocket fees and expenses incurred by 2100 Trust in connection with its indemnification obligations under this Section 7 shall be recoverable by 2100 Trust solely from the Indemnity Escrow Fund. The Parties hereby grant Escrow Agent a lien on, right of set-off against and security interest in the Fund for the payment of any claim for indemnification, fees, expenses and amounts due to Escrow Agent or an Indemnitee. In furtherance of the foregoing, Escrow Agent is expressly authorized and directed, but shall not be obligated, to charge against and withdraw from the Fund for its own account or for the account of an Indemnitee any amounts due to Escrow Agent or to an Indemnitee under Section 6 or 7. The obligations set forth in this Section 7 shall survive the resignation, replacement or removal of Escrow Agent or the termination of this Agreement.

8. **Notices**. All communications hereunder shall be in writing, and all instructions from a Party or the Parties to the Escrow Agent shall be executed by an Authorized Representative, and shall be delivered in accordance with the terms of this Agreement by hand, facsimile or overnight courier only to the appropriate fax number or notice address set forth for each party as follows (or as such Party shall otherwise direct in writing in according with the provisions of this Section 8):

To 2100 Trust:

2100 Trust, LLC
396 Washington Street, Suite 307
Wellesley, Massachusetts 02481
Attention: Aaron Kushner
Facsimile: (208)485-4839

With copies (which shall not constitute notice) to:

Latham & Watkins LLP
200 Clarendon Street
Boston, Massachusetts 02116
Attention: Johan V. Brigham, Esq.
Facsimile: (617) 948-6001

To Stockholder Representative:

Angelo, Gordon Management LLC
245 Park Ave, 26th Floor
New York, NY 10167
Attention: [_____]
Facsimile: [_____]

With copies (which shall not constitute notice) to:

[_____]
[_____]
Attention: [_____]
Facsimile: [_____]

If to Escrow Agent:

JPMorgan Chase Bank, N.A.
Escrow Services
333 S. Grand Avenue, 36th Floor
Los Angeles, CA 90071
Attention: Nelia Lopez
Fax No.: (213) 621-8090

9. **Compliance with Court Orders**. In the event that any of the Fund shall be attached, garnished, levied upon, or otherwise be subject to any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, Escrow Agent is hereby expressly authorized, in its sole discretion, to obey and comply with all such orders so entered or issued, which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction, and in the event that Escrow Agent obeys or complies with any such order it shall not be liable to any

of the Parties hereto or to any other person by reason of such compliance notwithstanding such order be subsequently reversed, modified, annulled, set aside or vacated.

10. **Records**. The Escrow Agent shall maintain accurate records of all transactions hereunder. As may reasonably be requested by 2100 Trust or the Stockholder Representative from time to time, the Escrow Agent shall provide 2100 Trust or the Stockholder Representative, as the case may be, with a complete copy of such records, confirmed by the Escrow Agent to be a complete and accurate account of all such transactions.

11. **Miscellaneous**. The provisions of this Agreement may be waived, altered, amended or supplemented only by a writing signed by the Escrow Agent and the Parties. Neither this Agreement nor any right or interest hereunder may be assigned by any Party without the prior consent of Escrow Agent and the other Party. This Agreement shall be governed by and construed under the laws of the State of Delaware applicable to contracts made and to be performed entirely within such state, without regard to the conflicts of law principles of such state. Each Party and Escrow Agent irrevocably waives any objection on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consents to service of process by mail or in any other manner permitted by applicable law and consents to the jurisdiction of the state and federal courts located in the County of New Castle, State of Delaware. To the extent that in any jurisdiction either Party may now or hereafter be entitled to claim for itself or its assets, immunity from suit, execution, attachment (before or after judgment) or other legal process, such Party shall not claim, and hereby irrevocably waives, such immunity. Escrow Agent and the Parties further hereby waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement. No party to this Agreement is liable to any other party for losses due to, or if it is unable to perform its obligations under the terms of this Agreement because of, acts of God, fire, war, terrorism, floods, strikes, electrical outages, equipment or transmission failure, or other causes reasonably beyond its control. This Agreement and any joint instructions from the Parties, may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument or instruction, as applicable. All signatures of the parties to this Agreement may be transmitted by facsimile, and such facsimile will, for all purposes, be deemed to be the original signature of such party whose signature it reproduces, and will be binding upon such party. If any provision of this Agreement is determined to be prohibited or unenforceable by reason of any applicable law of a jurisdiction, then such provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof, and any such prohibition or unenforceability in such jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. The Parties represent, warrant and covenant that each document, notice, instruction or request provided by such Party to Escrow Agent shall comply with applicable laws and regulations. Except as expressly provided in Section 7 above, nothing in this Agreement, whether express or implied, shall be construed to give to any person or entity other than Escrow Agent and the Parties any legal or equitable right, remedy, interest or claim under or in respect of the Fund or this Agreement.

[*signature pages follow*]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

2100 TRUST, LLC

By: _____
Name: _____
Title: _____

STOCKHOLDER REPRESENTATIVE:

ANGELO, GORDON MANAGEMENT LLC

By: _____
Name:
Title:

JPMORGAN CHASE BANK, NA,
As Escrow Agent

By: _____
Name: _____
Title: _____

SCHEDULE 1

Telephone Numbers and Authorized Signatures for
Person(s) Designated to Give Joint Instructions and Confirm Funds Transfer Instructions

For 2100 Trust:

Name	Telephone Number	Signature
1._____	_____	_____
2._____	_____	_____
3._____	_____	_____

For Stockholder Representative:

Name	Telephone Number	Signature
1._____	_____	_____
2._____	_____	_____
3._____	_____	_____

All instructions, including but not limited to funds transfer instructions, must include the signature of the Authorized Representative authorizing said funds transfer on behalf of each Party.

SCHEDULE 2

J.P.Morgan

Schedule of Fees and Disclosures for Escrow Agent Services

Based upon our current understanding of your proposed transaction, our fee proposal is as follows:

Account Acceptance Fee .....**$ WAIVED**
Encompassing review, negotiation and execution of governing documentation, opening of the account, and completion of all due diligence documentation. Payable upon closing.

Annual Administration Fee .....**$ 2,500**
The Administration Fee covers our usual and customary ministerial duties, including record keeping, distributions, document compliance and such other duties and responsibilities expressly set forth in the governing documents for each transaction. Payable upon closing and annually in advance thereafter, without pro-ration for partial years.

Extraordinary Services and Out-of Pocket Expenses
Any additional services beyond our standard services as specified above, and all reasonable out-of-pocket expenses including attorney's or accountant's fees and expenses will be considered extraordinary services for which related costs, transaction charges, and additional fees will be billed at the Bank's then standard rate. Disbursements, receipts, investments or tax reporting exceeding 25 items per year may be treated as extraordinary services thereby incurring additional charges. The Escrow Agent may impose, charge, pass-through and modify fees and/or charges for any account established and services provided by the Escrow Agent, including but not limited to, transaction, maintenance, balance-deficiency, and service fees, agency or trade execution fees, and other charges, including those levied by any governmental authority.

Disclosure & Assumptions: Please note that the fees quoted are based on a review of the transaction documents provided and an internal due diligence review. JPMorgan reserves the right to revise, modify, change and supplement the fees quoted herein if the assumptions underlying the activity in the account, level of balances, market volatility or conditions or other factors change from those used to set our fees. Payment of the invoice is due upon receipt.

The escrow deposit shall be continuously invested in a JPMorgan Chase Bank money market deposit account ("MMDA") account. MMDA Accounts have rates of compensation that may vary from time to time based upon market conditions. The Annual Administration Fee would include a supplemental charge up to 25 basis points on the escrow deposit amount if another investment option were to be chosen.

You acknowledge and agree that they are permitted by U.S. law to make up to six (6) pre-authorized withdrawals or telephonic transfers from an MMDA per calendar month or statement cycle or similar period. If the MMDA can be accessed by checks, drafts, bills of exchange, notes and other financial instruments ("Items"), then no more than three (3) of

these six (6) transfers may be made by an Item. Escrow Agent is required by U.S. law to reserve the right to require at least seven (7) days notice prior to a withdrawal from a money market deposit account.

Compliance

Patriot Act Disclosure. Section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ("USA PATRIOT Act") requires Escrow Agent to implement reasonable procedures to verify the identity of any person that opens a new account with it. Accordingly, you acknowledge that Section 326 of the USA PATRIOT Act and Escrow Agent's identity verification procedures require Escrow Agent to obtain information which may be used to confirm your identity including without limitation name, address and organizational documents ("identifying information"). You agree to provide Escrow Agent with and consent to Escrow Agent obtaining from third parties any such identifying information required as a condition of opening an account with or using any service provided by the Escrow Agent.

Exhibit C

Example Statement of Working Capital

[see attached]

Exhibit C

Example Statement of Working Capital
As of March 31, 2012

	As Reported	Eliminate Disposition Transactions	Eliminate Cash Bank Debt & Related Amounts	Adjusted
Cash and cash equivalents	$ 42,231,142	$ (998,126)	$ (40,574,600)	$ 658,416
Receivables - net	37,243,170	(13,875,141)	0	23,368,029
Inventories - net	7,666,134	(3,072,471)	0	4,593,663
Deferred income taxes	6,075,458	0	0	6,075,458
Prepaid expenses and other current assets	18,352,087	(2,125,256)	(2,324,533)	13,902,298
Current portion of long-term obligations	(15,289,267)	289,267	15,000,000	0
Salaries, wages and employee benefits	(24,534,004)	5,209,166	0	(19,324,838)
Accounts payable	(10,518,061)	2,731,711	0	(7,786,350)
Unearned subscription revenue	(18,742,999)	8,777,371	0	(9,965,628)
Other accrued liabilities	(13,722,544)	3,740,920	157,585	(9,824,039)
Current pension and other retirement related liabilities	(1,188,837)	0	0	(1,188,837)
Working capital	$ 27,572,280	$ 677,440	$ (27,741,548)	$ 508,172

Exhibit D

Form of Environmental Liability Insurance Policy

[see attached]

Moulton, Michael (LAC)

From: Mark McEachen [mmceachen@freedom.com]
Sent: Friday, June 08, 2012 12:40 PM
To: Kray, Stacy E (PAL)
Cc: Mark Weisberger; Garelick, Andrew D (LAC); Mitchell Stern
Subject: RE: please confirm XL Policy option

Yes that is right from my end. I will now get Aaron to confirm and forward.

Mark

From: Kray, Stacy E [mailto:Stacy.Kray@skadden.com]
Sent: Friday, June 08, 2012 12:36 PM
To: Mark McEachen
Cc: Mark Weisberger; Garelick, Andrew D
Subject: please confirm XL Policy option

Mark M. -

Could you please confirm that the parties have agreed to the XL policy option that provides:

- $20 million limit
- 10-year term
- $100,000 self-insured retention
- no terrorism coverage (offered for an an additional premium)

Please also obtain the Buyer's concurrence and email back to me.

We will include these emails in the exhibits to the merger agreement to confirm the form of environmental insurance.

Thanks.

Stacy E. Kray
Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue| Palo Alto | California | 94301
T: 650.470.4535| F: 650.798.6604
stacy.kray@skadden.com

Skadden

****
To ensure compliance with Treasury Department regulations, we advise you that, unless otherwise expressly indicated, any federal tax advice contained in this message was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.
****

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This email (and any attachments thereto) is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this email, you are hereby notified that any dissemination, distribution or copying of this email (and any attachments thereto) is strictly prohibited. If you receive this email in error please immediately notify me at (212) 735-3000 and permanently delete the original email (and any copy of any email) and any printout thereof.

Further information about the firm, a list of the Partners and their professional qualifications will be provided upon request.

****

==========

Moulton, Michael (LAC)

From: Mark McEachen [mmceachen@freedom.com]
Sent: Friday, June 08, 2012 12:53 PM
To: Kray, Stacy E (PAL); Garelick, Andrew D (LAC); Mark Weisberger
Cc: Mitchell Stern
Subject: Fw: please confirm XL Policy option

From: Aaron Kushner [mailto:kushner@2100trust.com]
Sent: Friday, June 08, 2012 12:51 PM
To: Mark McEachen
Subject: Re: please confirm XL Policy option

Confirmed

Best, Aaron

On Jun 8, 2012, at 3:40 PM, Mark McEachen <mmceachen@freedom.com> wrote:

> Hi there. Not sure if you have landed yet but can you write back that you confirm this and we can get this out of the way. ☺
>
> Mark

> **From:** Kray, Stacy E [mailto:Stacy.Kray@skadden.com]
> **Sent:** Friday, June 08, 2012 12:36 PM
> **To:** Mark McEachen
> **Cc:** Mark Weisberger; Garelick, Andrew D
> **Subject:** please confirm XL Policy option
>
> Mark M. -
>
> Could you please confirm that the parties have agreed to the XL policy option that provides:
>
> - $20 million limit
> - 10-year term
> - $100,000 self-insured retention
> - no terrorism coverage (offered for an an additional premium)
>
> Please also obtain the Buyer's concurrence and email back to me.
>
> We will include these emails in the exhibits to the merger agreement to confirm the form of environmental insurance.
>
> Thanks.
>
> **Stacy E. Kray**
> **Skadden, Arps, Slate, Meagher & Flom LLP**
> **525 University Avenue| Palo Alto | California | 94301**
> **T: 650.470.4535| F: 650.798.6604**

stacy.kray@skadden.com

Skadden

****

To ensure compliance with Treasury Department regulations, we advise you that, unless otherwise expressly indicated, any federal tax advice contained in this message was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.
****
****

This email (and any attachments thereto) is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this email, you are hereby notified that any dissemination, distribution or copying of this email (and any attachments thereto) is strictly prohibited. If you receive this email in error please immediately notify me at (212) 735-3000 and permanently delete the original email (and any copy of any email) and any printout thereof.

Further information about the firm, a list of the Partners and their professional qualifications will be provided upon request.
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Environmental Unit of XL Insurance
505 Eagleview Boulevard
PO Box 636
Exton, PA 19341-0363

Tel: 800-327-1414
Fax:610-458-8667

www.xlenvironmental.com

June 7, 2012 VIA EMAIL Charity.OSullivan@marsh.com

Charity O'Sullivan
777 S. Figueroa St.

Los Angeles, CA 90017

Re: **FREEDOM COMMUNICATIONS HOLDINGS, INC.**
Pacific Locations Revision IV

Dear Charity:

We are pleased to present the following indication for your client. The XL Insurance - Environmental program promotes an integrated approach to risk management through insurance, specialized risk control and claims management.

This indication is strictly limited to the terms and conditions outlined below and any other coverage extensions, deletions or changes requested in the submission may not have been granted. Any request to amend, add, or modify terms and conditions or coverage as set forth below will not serve to alter the terms and conditions or coverage until written acknowledgement and approval to such request is provided by the Company.

This indication will expire on July 31, 2012. Any extensions must be requested in writing.

ALL PREMIUMS PRESENTED ARE PREPAID FIGURES.

Please feel free to call me with any questions you may have.

Sincerely,

Greg Leinweber
Assistant Vice President
XL Insurance

Enclosure(s)

cc: Chris Biddle
5149736

PROPOSAL
for
FREEDOM COMMUNICATIONS HOLDINGS, INC.

Terrorism Risk Insurance Act of 2002, As Amended

TERRORISM QUOTE SUMMARY

Line of Business	"Certified" Acts Coverage / Premium	SFP States Following Fire Terrorism Premium
Pollution and Remediation Legal Liability	2% additional premium (if selected)	N/A

Possibility of Additional/Return Premium - The premium for Certified Acts of Terrorism coverage is calculated based in part on the federal participation in payment of terrorism losses as set forth in the Terrorism Risk Insurance Act, as amended. The federal program established by the Act is scheduled to terminate on 12/31/14, unless extended by the federal government. Continuation of coverage for Certified Acts of Terrorism, or termination of such coverage, will be determined upon disposition of the federal program, subject to the terms and conditions of this policy. If we notify you of an additional premium charge, the additional premium will be due as specified in such notice.

THE ABOVE TERRORISM PREMIUMS ARE IN ADDITION TO THE QUOTED LINES OF BUSINESS

AS THE TERRORISM RISK INSURANCE ACT OF 2002, AS AMENDED IS APPLICABLE TO THE U.S.A. ONLY, THE "CERTIFIED ACTS" COVERAGE IS NOT APPLICABLE OR AVAILABLE FOR CANADIAN COVERAGES.

The availability of coverage for Other Acts of Terrorism varies by state and may or may not be offered. Coverage for Certified Acts of Terrorism is optional. Please contact your insurance broker if you have any questions.

POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE

You are hereby notified that under the Terrorism Risk Insurance Act, as amended, that you have a right to purchase insurance coverage for losses resulting from acts of terrorism, *as defined in section 102(1) of the Act*: The term "act of terrorism" means any act that is certified by the Secretary of the Treasury – in concurrence with the Secretary of State, and the Attorney General of the United States – to be an act of terrorism; to be a violent act or an act that is dangerous to

human life, property, or infrastructure; to have resulted in damage within the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY THIS POLICY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GOVERNMENT GENERALLY REIMBURSES 85% OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY-ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A $100 BILLION CAP THAT LIMITS U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS' LIABILITY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE CALENDAR YEAR EXCEEDS $100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED $100 BILLION, YOUR COVERAGE MAY BE REDUCED.

TERRITORY

This policy(ies) will not apply to any risk which would be in violation of economic or trade sanctions administered by the United States Treasury, State, and Commerce Departments (e.g. the economic and trade sanctions administered by the United States Treasury Office of Foreign Assets Control – OFAC). **Refer to Territory Section of Policy for coverage details.** Countries or organizations with OFAC restrictions include but are not limited to the following: Balkans, Burma, Cuba, Iran, Iraq, Libya, Liberia, North Korea, Sierra Leone, Sudan, and Taliban. Please note that this list is subject to change. Up to date information is available on U.S. OFAC home page (http://www.treas.gov/ofac).

PROPOSAL
for
FREEDOM COMMUNICATIONS HOLDINGS, INC.

Environmental Real Estate Transaction Policy

Pollution and Remediation Legal Liability

POLICY TERMS

CARRIER and POLICY FORM:	Indian Harbor Insurance Company PARL6 TR CP 1111
A.M. BEST RATING:	A
FIRST NAMED INSURED:	**FREEDOM COMMUNICATIONS HOLDINGS, INC.**
COVERED LOCATION(S):	see endorsements attached
DOMICILE STATE:	CA

THE POLICY IS BEING ISSUED BY A SURPLUS LINES INSURANCE COMPANY. FOR SURPLUS LINES TAX REPORTING PURPOSES, PREMIUM WILL BE CODED TO THE STATE OF CALIFORNIA AND AN APPROPRIATE SURPLUS LINES LICENSE IS REQUIRED FOR EACH STATE. YOUR OFFICE WILL BE RESPONSIBLE FOR THE COLLECTION AND REMITTANCE OF ANY APPLICABLE TAXES AND FEES AS WELL AS THE FILING OF ALL REQUIRED AFFIDAVITS.

QUOTE SUMMARY

	1.	2.
Limits of Liability: Each POLLUTION CONDITION	$10,000,000	$20,000,000
Limits of Liability: Aggregate Liability	$10,000,000	$20,000,000
Self Insured Retention Amount: Each POLLUTION CONDITION	a) $50,000 b) $100,000	a) $50,000 b) $100,000
Policy Premium: 5 Year Term Minimum Earned Premium 60%	a) $82,158 b) 66,720	a) $121,823 b) $101,764
Policy Premium: 10 Year Term Minimum Earned Premium 100%	a) $148,058 b) $120,238	a) $219,540 b) $183,391

ANY AND ALL APPLICABLE TAXES ARE THE RESPONSIBILITY OF THE BROKER AND/OR INSURED AND ARE NOT INCLUDED IN ABOVE PREMIUM

RETROACTIVE DATE: Not Applicable

REVERSE RETROACTIVE DATE: Policy Inception

The above quotation does not include a premium for Certified Acts of Terrorism coverage, which we are required to offer for certified losses under the Terrorism Risk Insurance Act of 2002, as amended. The additional premium for this coverage, which is optional, is shown on the Terrorism Quote Summary.

Other Acts of Terrorism coverage is included in this policy regardless of whether Certified Acts of Terrorism coverage is purchased.

COMMISSION **15.5%**

CONDITIONS

1. Please stipulate in any Order to Bind if Insured has accepted or rejected the Terrorism Coverage as offered.
2. For multi-year policies, Policy Limits do not annually reinstate.

ENDORSEMENTS

1.	PARL6 001	Covered Location Schedule
2.	PARL6 058	Aggregated Self-Insured Retention Amount
3.	PARL6 208a	Broad Insured Endorsement
4.	PARL6 209a	Non Compliance Exclusion Amendatory Endorsement
5.	PARL6 220a	Fines/Penalties/Assessments Exclusion Amendment Coverage For Civil & Administrative Fines, Penalties And Assessments
6.	PARL6 401	Disclosed Document Schedule
7.	PARL6 407a	Radioactive / Nuclear Material Exclusion Amendment Coverage For Naturally Occurring Radioactive Materials
8.	PARL6 411b	Lead-Based Paint And Asbestos Exclusion Amendment Coverage For Bodily Injury, Property Damage And Related Legal Expense
9.	PARL6 412b	Underground Storage Tank(S) Exclusion - Deletion
10.	PARL6 414b	Material Change In Use Or Operations Exclusion Modification Endorsement
11.	PARL6 418a	Mold Matter Exclusion (not applicable in ongoing coverage)
12.	PARL6 902c	Ninety (90) Day/Fifteen (15) Day Notice Of Cancellation
13.	PARL6 909h	Primary Insurance Coverage Without Right Of Contribution
14.	PARL6 911c	Jurisdiction And Venue And Choice Of Law Conditions - Deletion
15.	PARL6 930	Coverage For Certified Acts Of Terrorism, Subject To Cap And Coverage For Other Acts Of Terrorism (If Accepted)
16.	PARL6 931	Exclusion Of Certified Acts Of Terrorism (If Rejected)
17.	PARL6 218f	Pollution Condition Definition Amendment – Bioterrorism (only applies if the insured purchases Terrorism Coverage as noted above)
18.	Manus	Reporting, Defense, Settlement and Cooperation
19.	Manus	Conditions Section Amendment
20.	Manus	Blanket Non-Owned Disposal Site(s) Coverage
21.	Manus	Exclusion Section Amendment
22.	PARL6 419b	Contamination Exclusion

23.	PARL6 025	Additional Named Insured
24.	PARL6 218c	Pollution Condition Definition Amendment - Abandoned Materials

The aforementioned endorsements change the policy. Please read them carefully and contact the Underwriter if you have any questions or comments. Complete copies of all endorsements are attached to this quote for your review.

GENERAL CONDITIONS

Exclusions in the quotation include, but are not limited to, the terms and conditions outlined above. Please refer to the policy contract for specifics. Any other coverage extensions, deletions, or changes requested in the submission are hereby rejected.

Please include the insured's Federal Employer Identification Number (FEIN) with your binding order. This is a statistical reporting requirement for all states.

XL SPECIALTY RISK CONSULTING AND ENGINEERING

Loss Control / Risk Management Support Services

XL Insurance - Environmental provides a variety of risk and loss control services. These services can be reviewed on our website, www.xlenvironmental.com. In addition to the services set forth on the website, a condition of coverage may be a risk control assessment of your operations. Your coverage will clearly indicate any and all conditions that may be established.

CLAIMS HANDLING SERVICES

In addition to insurance and loss control services, specialized claims handling services are provided by in house claims professionals 24/7.

The environmental claims administrators of XL Insurance have handled over 50,000 auto liability, general liability, property, pollution and professional liability claims. Attorneys and adjusters are assisted by in-house technical consultants, uniquely qualified in engineering and environmental fields. The diverse and professional staff provides to clients cost-effective solutions to litigation and remediation problems and is recognized for its responsiveness and ability to expedite problem solving in the claims process. When necessary, a wide network of proven defense counsel and experts augment claim handling efforts. The effective cost recovery strategies provided are essential in minimizing the overall financial risks.

The XL Insurance environmental claims administrator unit is recognized for lowering costs and ensuring timely and fair resolutions of claims and is dedicated to providing quality, ethical, prompt service in a friendly fashion to every client.

PAYMENT TERMS

In order to bind coverage, we must receive your written instructions confirming coverage(s) desired prior to releasing policy numbers. The full premium payment is due thirty (30) days from the effective date.

ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLLUTION CONDITION DEFINITION AMENDMENT - ABANDONED MATERIALS

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section II. DEFINITIONS, R. POLLUTION CONDITION, is amended by the addition of the following:

> POLLUTION CONDITION also means the illicit abandonment by anyone other than the INSURED and without the knowledge of the INSURED, of POLLUTANTS or any drums, tanks or similar containers holding such POLLUTANTS in, on or under the soil or any watercourse or body of water including groundwater at any COVERED LOCATION.

All other terms and conditions remain the same.

ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL NAMED INSURED

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

The following are included as an ADDITIONAL NAMED INSURED:

ADDITIONAL NAMED INSURED

2100 Trust Freedom, Inc.

Freedom Communications, Inc.
Porterville Recorder Company
Daily Press, LLC
Freedom Newspapers of Southwestern Arizona, Inc.
Freedom Colorado Information, Inc.
Appeal Democrat, Inc.
Freedom Newspapers, Inc.
Orange County Register Communications, Inc.
OCR Community Publications, Inc.
OCR Information Marketing, Inc.

All other terms and conditions remain the same.

PARL6 025

ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INSURED CONTRACT(S) SCHEDULE

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section IV. EXCLUSIONS, 4. Contractual Liability, is amended by the addition of the following:

List of Contract(s):

1. Agreement and Plan of Merger by and Among [Eagle] Holdings, Inc., 2100 Trust, LLC and 2100 Trust Freedom, Inc., Draft 6/7/12

Notwithstanding the above, no coverage is afforded under this Policy for the liability of others assumed by the INSURED in the above listed contract(s) unless coverage for such liability is otherwise afforded under the terms and conditions of this Policy.

All other terms and conditions remain the same.

PARL6 404

ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

REPORTING, DEFENSE, SETTLEMENT AND COOPERATION SECTION AMENDMENT

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section VII. REPORTING, DEFENSE, SETTLEMENT AND COOPERATION is deleted in its entirety and replaced with the following:

VII. REPORTING, DEFENSE, SETTLEMENT AND COOPERATION

A. As a condition precedent to the coverage hereunder, in the event any CLAIM is made against the INSURED for LOSS or REMEDIATION EXPENSE, or any POLLUTION CONDITION is first discovered by the INSURED that results in a LOSS or REMEDIATION EXPENSE:

1. The INSURED shall forward to the Company or to any of its authorized agents every demand, notice, summons, order or other process received by the INSURED or the INSURED's representative as soon as practicable; and

2. The INSURED shall provide to the Company, whether orally or in writing, notice of the particulars with respect to the time, place and circumstances thereof, along with the names and addresses of the injured and of available witnesses. In the event of oral notice, the INSURED agrees to furnish to the Company a written report as soon as practicable.

Provided that where allowed by law, the INSURED's failure to comply with these reporting covenants shall not excuse the Company from performance hereunder except to the extent that such failure actually prejudices the Company. It is further agreed, that the INSURED shall cooperate with the Company and upon the Company's request shall submit to

examination by a representative of the Company, under oath if required, and shall attend hearings, depositions and trials and shall assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits, as well as in the investigation and/or defense thereof, all without charge to the Company. The INSURED shall use commercially reasonable efforts to further cooperate with the Company and do whatever is necessary to secure and effect any rights of indemnity, contribution or apportionment which the INSURED may have.

B. No costs, charges or expenses shall be incurred, nor payments made, obligations assumed or remediation commenced without the Company's written consent which shall not be unreasonably withheld. This provision does not apply to costs incurred by the INSURED on an emergency basis, where any delay on the part of the INSURED would reasonably be expected to cause injury to persons or damage to property, or increase significantly the cost of responding to any POLLUTION CONDITION. If such emergency occurs, the INSURED shall notify the Company promptly thereafter.

C. The Company shall have the right and the duty to defend an INSURED against any CLAIM seeking damages for a LOSS or for REMEDIATION EXPENSE. The Company will have no duty to defend the INSURED against any CLAIM for LOSS or for REMEDIATION EXPENSE to which this Policy does not apply.

D. The Company shall have the right and the duty to assume the investigation, adjustment or defense of any CLAIM. In case of the exercise of this right, the INSURED, on demand of the Company, shall promptly reimburse the Company for any element of LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE or any other coverages afforded by endorsement falling within the Self-Insured Retention Amount stated in Item 4. of the Declarations.

The INSURED shall not admit liability or settle any CLAIM without the Company's consent, which will not be unreasonably withheld. If the Company recommends a settlement of any CLAIM:

1. for an amount within the Self-Insured Retention Amount and the INSURED refuses such settlement, the Company shall not be liable for any LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE and any other coverages afforded by endorsement in excess of the Self-Insured Retention Amount; or

2. for a total amount in excess of the Self-Insured Retention Amount and the INSURED refuses such settlement, the Company's liability for LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE and any other coverages afforded by endorsement shall be limited to that portion of the recommended settlement and the costs, charges and expenses as of the date of the INSURED’s refusal which exceed the Self-Insured Retention Amount but fall within the Limits of Liability.

E. If a POLLUTION CONDITION is first discovered by the INSURED during the POLICY PERIOD and reported in writing to the Company during the POLICY PERIOD or, where applicable, the EXTENDED REPORTING PERIOD, and a CLAIM associated with such POLLUTION CONDITION is made against the INSURED and reported to the Company after the expiration of this Policy, but prior to the expiration date of the EXTENDED REPORTING PERIOD, where applicable, such CLAIM shall be deemed to have been first made and reported on the last day of the POLICY PERIOD in which the POLLUTION CONDITION is first discovered.

F. The Company shall have the right to designate legal counsel for the investigation, adjustment and defense of a CLAIM. The Company shall consult with the INSURED in conjunction with the selection of counsel. If the Company is required by law to permit the INSURED to select independent counsel to defend the INSURED, then said Independent counsel must follow the Company's billing and reporting requirements, and will timely respond to the Company's request for information regarding the CLAIM. In addition, the Company may exercise the right to require that such counsel have certain minimum qualifications with respect to competency, including experience in defending a CLAIM similar to the one pending against the INSURED, and to require such counsel to have sufficient errors and omissions insurance coverage. Furthermore, the INSURED may at any time, by its signed consent, freely and fully waive its right to select independent counsel.

All other terms and conditions remain the same.

ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

CONDITIONS SECTION AMENDMENT

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section IX. CONDITIONS, B. Cancellation, is deleted in its entirety and replaced with the following:

B. Cancellation -- The INSURED and the Company agree to the following with regard to cancellation:

1. **Cancellation by the FIRST NAMED INSURED --** This Policy may be canceled by the FIRST NAMED INSURED by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter the cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice of cancellation. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the POLICY PERIOD. Confirmed delivery of such written notice by the FIRST NAMED INSURED shall be equivalent to mailing.

   The Minimum Earned Premium for this Policy will be the percentage stated in Item 8. of the Declarations of the total premium for this Policy. The FIRST NAMED INSURED is not entitled to any return of the Minimum Earned Premium upon cancellation by the FIRST NAMED INSURED.

   If the Minimum Earned Premium is less than one hundred percent (100%), and the FIRST NAMED INSURED cancels this Policy, then the amount of premium returnable after the minimum premium earned is retained by the Company shall be computed in accordance with the customary short rate table and procedure.

2. **Cancellation by the Company --** This Policy may be canceled by the Company by mailing to the FIRST NAMED INSURED at the address shown in Item 1. of the Declarations, written notice stating when not less than sixty (60) days [or ten (10) days for non-payment of premium] thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice of cancellation. The effective date and hour of cancellation stated in the notice shall become the end

of the POLICY PERIOD.

The Company may cancel this Policy at any time, but only for the following reasons:

a. the INSURED has made a material misrepresentation which affects the Company's assessment of the risk of insuring any COVERED LOCATION; or

b. the INSURED materially breaches or fails to comply with Policy terms, conditions, contractual duties, or any of its obligations under this Policy or at law; or

c. the INSURED fails to pay the premium or fails to pay any Deductible or the Self-Insured Retention Amount for this Policy.

If the Company cancels this Policy, then the amount of premium returnable to the INSURED shall be computed pro rata and no minimum earned premium shall apply.

In the event of cancellation of this Policy by the Company from Item b. above, the INSURED shall have sixty (60) days from the date of notice to remedy such breach or failure to comply that is the cause for cancellation. If such remedy is satisfactory to the Company, in its sole discretion, during the applicable notice period, the Company will rescind the Notice of Cancellation with a written confirmation to the FIRST NAMED INSURED that the Policy shall remain in place.

With regard to both Items 1. and 2. above:

1. The premium adjustment may be made either at the time cancellation is affected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation; and

2. If a CLAIM is made against the INSURED, and the POLLUTION CONDITION related to such CLAIM is discovered or coverage is requested from the Company by the INSURED during the POLICY PERIOD or, where applicable, the EXTENDED REPORTING PERIOD, then the total premium shall be considered one hundred percent (100%) earned, and the INSURED is not entitled to any return of premium upon cancellation.

Section IX. CONDITIONS, C. Declarations and Representations, is deleted in its entirety and replaced with the following:

C. Declarations and Representations -- By acceptance of this Policy, the INSURED agrees that the statements contained in the Application and any other supplemental materials and information prepared by or on behalf of the INSURED and submitted herewith are the INSURED's agreements and representations, that they shall be deemed material, that this Policy is issued in reliance upon the truth of such representations and that this Policy embodies all agreements existing between the INSURED and the Company or any of its agents relating to this insurance.

Section IX. CONDITIONS, E. Assignment, is deleted in its entirety and replaced with the following:

E. **Assignment** -- This Policy shall be void as to the assignee or transferee, if assigned or transferred without the written consent of the Company. Such written consent shall not be unreasonably withheld or delayed by the Company. It is agreed that the Company shall not withhold its consent if:

1. there is no material change in use or operations for any COVERED LOCATION during the POLICY PERIOD, and no contemplated material change in use or operations by the assignee;

2. satisfactory Company review of assignee's audited financial statements for the past two years which supports the assignee's ability to meet its obligations under this Policy; and

3. the assignee has provided written confirmation to the Company that they have read this Policy and agrees to comply with the terms and conditions of this Policy.

Section IX. CONDITIONS, M. Severability, is deleted in its entirety and replaced with the following:

M. **Severability --** Except with respect to Limits of Liability and any rights and duties assigned in this Policy to the FIRST NAMED INSURED, and notwithstanding anything to the contrary in any other provision, condition, exclusion of or endorsement attached to this Policy, this insurance applies as if each INSURED were the only INSURED and separately to each INSURED against whom a CLAIM is made.

Any misrepresentation, act or omission that is in violation of a term, duty or condition, or would result in the applicability of any exclusion or cancellation right of the Company under this Policy by one INSURED shall not by itself affect coverage for another INSURED under this Policy. However, this condition shall not apply to the INSURED who is a parent, subsidiary or affiliate of the INSURED which committed the misrepresentation, act or omission referenced above.

All other terms and conditions remain the same.

ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET NON-OWNED DISPOSAL SITE(S) COVERAGE

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

This Policy applies to the following Non-Owned Disposal site(s) (NODS) but solely with respect to the liability of the INSURED for the following coverages:

[X] Coverage A – POLLUTION LEGAL LIABILITY

[X] Coverage B – REMEDIATION LEGAL LIABILITY

resulting from any POLLUTION CONDITION,

[X] on, at, under or migrating from a NODS as referenced below.

All NODS utilized by the INSURED, provided that:

1. the waste material originated from a COVERED LOCATION prior to the inception date of this Policy;

2. the NODS is licensed to accept such material as of the date of disposal; and

3. the NODS is not listed on a proposed or final State Superfund List and/or Federal National Priorities List prior to the inception date of this Policy.

All other terms and conditions remain the same.

ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION SECTION AMENDMENT

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section IV. EXCLUSIONS, 6. New Pollution Conditions at Divested Property, is deleted in its entirety and replaced with the following:

6. New Pollution Conditions at Divested Property
based upon or arising from any POLLUTION CONDITION on, at, under or migrating from any COVERED LOCATION, where the actual release of POLLUTANTS first commenced subsequent to the time such COVERED LOCATION was sold, given away, or abandoned by the INSURED, or condemned.

Section IV. EXCLUSIONS, 16. Reverse Retroactive Date, is deleted in its entirety and replaced with the following:

16. Reverse Retroactive Date
based upon or arising out of any POLLUTION CONDITION that first commenced subsequent to the Reverse Retroactive Date stated in Item 6. of the Declarations.

All other terms and conditions remain the same.

ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COVERED LOCATION SCHEDULE

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

This Policy applies to a COVERED LOCATION listed below, but solely with respect to the liability of the INSURED.

[X] COVERED LOCATION

1. 515, 523, 625, 729 & 839 N. Grand Avenue and 1300, 1340, 1345, 1346, 1349, 1353, 1357, 1401, 1402, 1405, 1409, 1410, 1413 & 1425 E. Fruit Street (and alley parcel on E. Fruit Street), abandoned part of 6th Street, Santa Ana, CA 92701

2. 1530 Ellis Lake Drive, Marysville, CA 95901

3. 13829, 13843, 13875 & 13891 Park Avenue, Victorville, CA 92392

4. 1701 & 1771 Lewis Street, Anaheim, CA 92805

5. 2035 & 2055 S. Arizona Avenue, Yuma, AZ 85364

6. 30, 108, 112 & 114 S. Prospect Street, 727, 735, 739, 745 & 749 E. Pikes Peak Avenue, 704, 708, 712, 716, 720, 731, 737 & 749 E. Colorado Avenue, Colorado Springs, CO 80903

7. 115 East Oak Avenue, Porterville, CA

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It is further agreed, that this Policy does not apply to LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE or any other coverages afford by endorsement attached to this Policy arising from any POLLUTION CONDITION on, at, under or migrating from any location unless such location is specifically endorsed onto this Policy as a COVERED LOCATION. During the POLICY PERIOD, the FIRST NAMED INSURED may request that a new location be added to this Policy by endorsement. The Company shall advise the FIRST NAMED INSURED of any information needed to consider the request. If the Company agrees to add this new location to the Policy, it will do so by issuing an endorsement adding the location as a COVERED LOCATION. Coverage for any such added location will not be effective until the Company issues the endorsement adding the location as a COVERED LOCATION. Locations added to the Policy may be subject to additional premium or coverage restrictions.

All other terms and conditions remain the same.

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ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AGGREGATED SELF-INSURED RETENTION AMOUNT

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Item 4. Self-Insured Retention Amount of the Declarations, is deleted in its entirety and replaced with the following:

4. Self-Insured Retention Amount: $ Same as policy each POLLUTION CONDITION

$ 3x policy SIR Aggregate

When the Aggregate Self-Insured Retention Amount is cumulatively incurred by the INSURED, the Self-Insured Retention Amount applicable to each and every additional POLLUTION CONDITION shall be $25,000.

All other terms and conditions remain the same.

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ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BROAD INSURED ENDORSEMENT

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section II. DEFINITIONS, H. INSURED, is deleted in its entirety and replaced with the following:

H. INSURED means:

Section 1. the FIRST NAMED INSURED;

2. any and all subsidiaries, joint ventures, co-ventures, general partnerships, limited partnerships, limited liability companies, joint operating agreements or other interests of the FIRST NAMED INSURED, and their members, partners, spouses, employees, executive officers and directors, and all proprietary and affiliated companies or corporations as have existed at any time, or as now or hereafter may exist during the POLICY PERIOD and in which the FIRST NAMED INSURED did or does have at least a fifty percent (50%) or more ownership interest, or direct or indirect management control, and all affiliated organizations for which the FIRST NAMED INSURED has the responsibility of placing insurance and for which coverage is not otherwise more specifically provided;

3. any ADDITIONAL NAMED INSURED endorsed onto this Policy; and/or

4. any present or former director, officer, partner, employee, leased worker or temporary worker of 1., 2. And 3. Above while any of the foregoing are acting within the course and scope of his/her duties as such.

All other terms and conditions remain the same.

SPECIMEN

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ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NON COMPLIANCE EXCLUSION AMENDATORY ENDORSEMENT

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section IV. EXCLUSIONS, 9. Non-Compliance, is deleted in its entirety and replaced with the following:

9. Non-Compliance
arising from any POLLUTION CONDITION that results from the intentional disregard of, or the deliberate, willful or dishonest non-compliance by a RESPONSIBLE INSURED with any statute, regulation, ordinance, order, notice letter or instruction from, by or on behalf of any governmental body or entity.

This exclusion does not apply to any action(s) taken by a RESPONSIBLE INSURED:

Section 1. as a result of a written opinion, by an attorney who is licensed in the jurisdiction where the COVERED LOCATION at issue is located, recommending that the RESPONSIBLE INSURED take such action(s) provided that the written opinion is received by the RESPONSIBLE INSURED prior to taking such action(s); or

(b) with the prior written consent of the Company.

All other terms and conditions remain the same.

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ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DISCLOSED DOCUMENT SCHEDULE

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section IV. EXCLUSIONS, 1. Non-Disclosed Conditions, is amended by the addition of the following:

The following document(s) and conditions have been disclosed to the Company by the INSURED as of the Policy inception date:

Document(s) – Title & Author	Document(s) – Date
1. Phase I ESA, Santa Ana, CA (revised), Giatech	April 2012
2. Phase I ESA, Marysville, CA, Gaiatech	April 2012
3. Phase I ESA, Victorville, CA, (revised), Gaiatech	April 2012
4. Phase I ESA, Anaheim, CA Gaiatech	April 2012
5. Phase I ESA, Yuma, AZ (revised), Gaiatech	April 2012
6. Phase I ESA, Colorado Springs, CO (revised), Gaiatech	April 2012
7. Phase I ESA Porterville, CA, Gaiatech	April 2012
8. Environmental Review, 839 N. Grand, Santa Ana, CA Gaiatech	June 1, 2012

All other terms and conditions remain the same.

SPECIMEN

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ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

RADIOACTIVE / NUCLEAR MATERIAL EXCLUSION AMENDMENT
COVERAGE FOR NATURALLY OCCURRING RADIOACTIVE MATERIALS

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section IV. EXCLUSIONS, 7. Radioactive / Nuclear Material, is deleted in its entirety and replaced with the following:

7. Radioactive / Nuclear Material
based upon or arising out of:

a. ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the processing or reaction of nuclear fuel;

b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

c. high-level radioactive waste (spent nuclear fuel or the highly radioactive waste produced if spent fuel is reprocessed), uranium milling residues and waste with greater than specified quantities of elements heavier than uranium; or

d. mixed Waste as defined in Title 40 Code of Federal Regulations, Part 266.210; however, this clause e. does not apply to Mixed Waste that contains Waste as defined in Title 10 Code of Federal Regulations, Part 61.2,

including, but not limited to the actual, alleged or threatened exposure of any person(s) or property to any such matter.

All other terms and conditions remain the same.

SPECIMEN

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ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LEAD-BASED PAINT AND ASBESTOS EXCLUSION AMENDMENT
COVERAGE FOR BODILY INJURY, PROPERTY DAMAGE AND RELATED LEGAL EXPENSE

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section IV. EXCLUSIONS, 11. Lead-Based Paint and Asbestos, is deleted in its entirety and replaced with the following:

11. Lead-Based Paint and Asbestos
based upon or arising out of the existence, required removal or abatement of lead-based paint or asbestos in any building or structure, including but not limited to products containing asbestos, asbestos fibers, asbestos dust, and asbestos containing materials.

However, this exclusion does not apply to a CLAIM for BODILY INJURY or PROPERTY DAMAGE and related LEGAL EXPENSE resulting from lead-based paint or asbestos in any form, including but not limited to products containing asbestos, asbestos fibers, asbestos dust, and asbestos containing materials on, at under or migrating from a COVERED LOCATION.

All other terms and conditions remain the same.

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ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UNDERGROUND STORAGE TANK(S) EXCLUSION - DELETION

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section II. DEFINITIONS, X. UNDERGROUND STORAGE TANK(S), is deleted in its entirety.

Section IV. EXCLUSIONS, 12. Underground Storage Tank(s), is deleted in its entirety.

All other terms and conditions remain the same.

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This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

MATERIAL CHANGE IN USE OR OPERATIONS EXCLUSION MODIFICATION ENDORSEMENT

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following policy change(s):

Section IV. EXCLUSIONS, 14. Material Change in Use or Operations is deleted in its entirety and replaced with the following:

Material Change In Use or Operations
based upon or arising out of a material change in use of, or a material change in operations at, any COVERED LOCATION from those set forth by the INSURED in the Application or related materials as of the inception date of this Policy.

For purposes of this endorsement, the following property uses or operations listed below, would not constitute a material change in use or operation: printing, printed materials distribution and associated office and warehousing, and commercial or industrial uses

All other terms and conditions remain the same.

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This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

MOLD MATTER EXCLUSION

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section IV. EXCLUSIONS, is amended by the addition of the following:

Mold Matter
based upon or arising out of the existence, exposure to, required removal or abatement of MOLD MATTER, regardless of the cause of such MOLD MATTER.

All other terms and conditions remain the same.

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This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NINETY (90) DAY/FIFTEEN (15) DAY NOTICE OF CANCELLATION

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section IX. CONDITIONS, B. Cancellation, 2. Cancellation by the Company, Sentence 1, is deleted in its entirety and replaced with the following:

This Policy may be canceled by the Company by mailing to the FIRST NAMED INSURED at the address stated in Item 1. of the Declarations, written notice stating when not less than ninety (90) days, [fifteen (15) days for non-payment of premium] thereafter such cancellation shall be effective.

All other terms and conditions remain the same.

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This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

JURISDICTION AND VENUE AND CHOICE OF LAW CONDITIONS - DELETION

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY

The INSURED and the Company agree to the following Policy Change(s):

Section IX. CONDITIONS, K. Jurisdiction and Venue, and L. Choice of Law, are deleted in their entirety.

All other terms and conditions remain the same.

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ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COVERAGE FOR CERTIFIED ACTS OF TERRORISM, SUBJECT TO CAP AND COVERAGE FOR OTHER ACTS OF TERRORISM COMMITTED WITHIN THE UNITED STATES

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

A. Provided that coverage is otherwise afforded under this Policy, and subject to all of the terms and conditions of this Policy, coverage is afforded for the following:

Terrorism

Any LOSS, REMEDIATION EXPENSE or LEGAL EXPENSE or any other coverages provided by endorsement, or ANY INJURY OR DAMAGE arising, directly or indirectly, out of a CERTIFIED ACT OF TERRORISM or an OTHER ACT OF TERRORISM.

B. The following DEFINITIONS are added:

1. For the purposes of this endorsement, **ANY INJURY OR DAMAGE** means any injury or damage covered under any Coverage Part to which this endorsement is applicable and as may be defined in any applicable Coverage Part.

2. **CERTIFIED ACT OF TERRORISM** means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, pursuant to the federal Terrorism Risk Insurance Act of 2002, as amended:

   a. to be an act that resulted in insured losses in excess of $5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act of 2002, as amended;

   b. to be an act of terrorism;

   c. to be a violent act or an act that is dangerous to human life, property or infrastructure;

   d. to have resulted in damage:

      i) within the United States; or

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ii) to an air carrier; to a United States flag vessel, regardless of where the loss occurs; or at the premises of a United States mission; and

e. to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

3. **OTHER ACT OF TERRORISM** means a violent act or an act that is dangerous to human life, property or infrastructure, that is committed within the United States by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not certified as a terrorist act pursuant to the federal Terrorism Risk Insurance Act of 2002, as amended.

However, OTHER ACT OF TERRORISM does not include acts of terrorism that fail to be certified losses solely because the act resulted in aggregate losses of $5 million or less. Multiple incidents of an OTHER ACT OF TERRORISM which occur within a (72) seventy two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident. OTHER ACT OF TERRORISM also does not include acts of terrorism committed outside of the United States.

C. With respect to any one or more CERTIFIED ACTS OF TERRORISM, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act of 2002, as amended, exceed $100 billion in a Program Year and the Company has met its insurer deductible under the Terrorism Risk Insurance Act of 2002, as amended, the Company shall not be liable for the payment of any portion of the amount of such losses that exceed $100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Seceatary of Treasury.

D. Section IV. EXCLUSIONS, Item 10. Hostile Acts is deleted in its entirety and replaced with the following:

10. **Hostile Acts**
based upon or arising out of any consequence, whether direct or indirect, of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, strike, riot or civil commotion.

This exclusion does not apply to a CERTIFIED ACT OF TERRORISM or an OTHER ACT OF TERRORISM.

All other terms and conditions remain the same.

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ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF CERTIFIED ACTS OF TERRORISM AND TERRORISM COMMITTED OUTSIDE OF THE UNITED STATES

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

A. Section IV. Exclusions is amended by the addition of the following exclusion:

CERTIFIED ACT OF TERRORISM AND TERRORISM COMMITTED OUTSIDE OF THE UNITED STATES

arising from any LOSS, REMEDIATION EXPENSE or LEGAL EXPENSE or any other coverages provided by endorsement, or ANY INJURY OR DAMAGE arising, directly or indirectly, out of a CERTIFIED ACT OF TERRORISM or any act of terrorism committed outside of the United States.

B. The following definitions are added:

1. For the purposes of this endorsement, **ANY INJURY OR DAMAGE** means any injury or damage covered under any Coverage Part to which this endorsement is applicable and as may be defined in any applicable Coverage Part.

2. **CERTIFIED ACT OF TERRORISM** means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States pursuant to the federal Terrorism Risk Insurance Act of 2002, as amended:

   a. to be an act that resulted in insured losses in excess of $5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act of 2002, as amended;

   b. to be an act of terrorism;

   c. to be a violent act or an act that is dangerous to human life, property or infrastructure;

   d. to have resulted in damage:

      i) within the United States; or

      ii) to an air carrier; to a United States flag vessel, regardless of where the loss occurs; or at the premises of a United States mission; and

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e. to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

3. **OTHER ACT OF TERRORISM** means a violent act or an act that is dangerous to human life, property or infrastructure that is committed within the United States and by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not certified as a terrorist act pursuant to the federal Terrorism Risk Insurance Act of 2002, as amended.

However, OTHER ACT OF TERRORISM does not include acts of terrorism that fail to be certified losses solely because the act resulted in aggregate losses of $5 million or less. Multiple incidents of an OTHER ACT OF TERRORISM which occur within a (72) seventy two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident. OTHER ACT OF TERRORISM does not include any act of terrorism committed outside of the United States.

C. Section IV. EXCLUSIONS, Item 10. Hostile Acts is deleted in its entirety and replaced with the following:

10. **Hostile Acts**
based upon or arising out of any consequence, whether direct or indirect, of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, strike, riot or civil commotion.

This exclusion does not apply to an OTHER ACT OF TERRORISM.

All other terms and conditions remain the same.

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ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY INSURANCE COVERAGE WITHOUT RIGHT OF CONTRIBUTION

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section IX. CONDITIONS, I. Other Insurance, is deleted in its entirety and replaced with the following:

I. Other Insurance -- Subject to Section VI. LIMITS OF LIABILITY AND SELF-INSURED RETENTION, this insurance shall be in excess of the Self-Insured Retention Amount stated in Item 4. of the Declarations and where other valid and collectable insurance is available to the INSURED for any POLLUTION CONDITION, this insurance shall apply as primary insurance versus any other valid and collectable insurance, and the Company will have no right of contribution against any other insurance company providing insurance for a POLLUTION CONDITION on a primary basis.

All other terms and conditions remain the same.

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ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FINES/PENALTIES/ASSESSMENTS EXCLUSION AMENDMENT
COVERAGE FOR CIVIL & ADMINISTRATIVE FINES, PENALTIES AND ASSESSMENTS

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section II. DEFINITIONS, T. REMEDIATION EXPENSE is deleted in its entirety and replaced with the following:

T. **REMEDIATION EXPENSE** means expenses caused by a POLLUTION CONDITION and incurred to investigate, assess, remove, dispose of, abate, contain, treat or neutralize a POLLUTION CONDITION, to the extent required by:

1. Federal, State, Local or Provincial Laws, Regulations or Statutes, or any subsequent amendments thereof, or MOLD MATTER REMEDIATION STANDARDS enacted to address a POLLUTION CONDITION, including any individual or entity acting under the authority thereof; and/or

2. a legally executed state voluntary program governing the cleanup of a POLLUTION CONDITION.

REMEDIATION EXPENSE shall also include any associated (i) monitoring and testing costs, (ii) punitive, exemplary or multiplied damages, where insurable by law, or (iii) civil and administrative fines, penalties or assessments, where insurable by law. REMEDIATION EXPENSE shall also include RESTORATION COSTS.

Section IV. EXCLUSIONS, 2. Fines/Penalties/Assessments, is amended by the addition of the following:

However, this exclusion will not apply to civil and administrative fines, penalties, or assessments, arising from a POLLUTION CONDITION, where insurance coverage for such civil and administrative fines, penalties or assessments is allowable by law.

It is further agreed that coverage for such civil or administrative fines, penalties, or assessments is subject to the following:

Sublimits of Liability:	$ 10,000,000	each POLLUTION CONDITION
	$ 10,000,000	Aggregate Liability
Self-Insured Retention Amount:	$ Same as policy	each POLLUTION CONDITION

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The maximum Limits of Liability for all POLLUTION CONDITION(S) shall not exceed the Aggregate Liability stated in Item 3b. of the Declarations.

All other terms and conditions remain the same.

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ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLLUTION CONDITION DEFINITION AMENDMENT – BIOTERRORISM

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section II. DEFINITIONS, R. POLLUTION CONDITION, is amended by the addition of the following:

POLLUTION CONDITION also means the deliberate discharge, dispersal or release, by an entity other than the INSURED, of viruses, bacteria or other germs or Bioterrorism Agents as defined by U.S. Center for Disease Control, resulting from:

a. a certified act of terrorism as defined by to the Terrorism Risk Insurance Act of 2002, as amended; or

b. a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not certified as a terrorist act pursuant to the Terrorism Risk Insurance Act of 2002, as amended.

Provided, however, that this addition to the definition of POLLUTION CONDITION applies only when this Policy has been endorsed for and affords coverage for certified acts of terrorism pursuant to the Terrorism Risk Insurance Act of 2002, as amended.

All other terms and conditions remain the same.

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IN WITNESS

XL INSURANCE AMERICA, INC.

REGULATORY OFFICE
505 EAGLEVIEW BOULEVARD, SUITE 100
DEPARTMENT: REGULATORY
EXTON, PA 19341-0636
PHONE: 800-688-1840

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It is hereby agreed and understood that the following In Witness Clause supercedes any and all other In Witness clauses in this policy.

All other provisions remain unchanged.

IN WITNESS WHEREOF, the Company has caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by a duly authorized representative of the Company.

Seraina Maag
President

Toni Ann Perkins
Secretary

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ENDORSEMENT #

This endorsement, effective 12:01 a.m., forms a part of

Policy No. issued to

by .

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTAMINATION EXCLUSION

This endorsement modifies insurance provided under the following:

POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

The INSURED and the Company agree to the following Policy change(s):

Section IV. EXCLUSIONS, is amended by the addition of the following exclusion:

This Policy does not apply to:

[ ] BODILY INJURY and related LEGAL EXPENSE

[ ] PROPERTY DAMAGE and related LEGAL EXPENSE

[X] REMEDIATION EXPENSE and related LEGAL EXPENSE

[ ] other coverage(s) afforded by endorsement attached to this Policy, as specified below

Other Coverage(s) (list endorsement name and number)

or

[ ] All coverages afforded under this Policy.

based upon or arising from the following Constituents (including any breakdown daughter or derivative products of such Constituents):

1. TPH-gasoline associated with the operation Soil Vapor Extraction system
2.
3.

in or affecting the following Media:

[X] Soil [X] Groundwater [ ] Surface Water/Sediment

[ ] Air [X] Other:soil vapor

or

[ ] All Media

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As referenced, if applicable, in the following assessment(s) or document(s):

[ ] List of Assessment(s) or Document(s):

1.
2.
3.

or

[ ] Not Applicable

where such Constituent(s) is/are

[X] On, at, or under
[ ] On, at, under or migrating from
[ ] Migrating from

the following location(s):

1. 515, 523, 625, 729 & 839 N. Grand Avenue and 1300, 1340, 1345, 1346, 1349, 1353, 1357, 1401, 1402, 1405, 1409, 1410, 1413 & 1425 E. Fruit Street (and alley parcel on E. Fruit Street), abandoned part of 6th Street, Santa Ana, CA 92701

With respect to this exclusion, in the event a No Further Action (NFA) letter(s) or similar documentation has been issued by the applicable regulatory authority(ies) which states that No Further Action is required with respect to the Constituents excluded by this endorsement, this endorsement may be deleted or modified by the Company for those Constituents that are the subject of the NFA or similar documentation, upon Company review and approval, which approval shall not be unreasonably withheld or delayed.

It is further agreed that such deletion or modification shall not be effective until the Company issues an endorsement deleting or modifying this specific endorsement. In no event shall the Company be liable for any LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE or any other coverage granted by deleting or modifying this endorsement that: (1) arose prior to the effective date of the endorsement deleting or modifying this specific endorsement; or (2) were incurred to achieve such No Further Action status.

All other terms and conditions remain the same.

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POLLUTION AND REMEDIATION LEGAL LIABILITY POLICY

THIS IS A "CLAIMS-MADE AND REPORTED" POLICY. THIS POLICY REQUIRES THAT A CLAIM BE MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD OR, WHERE APPLICABLE, THE EXTENDED REPORTING PERIOD. IN ADDITION, THIS POLICY MAY HAVE PROVISIONS OR REQUIREMENTS DIFFERENT FROM OTHER POLICIES YOU MAY HAVE PURCHASED. PLEASE READ CAREFULLY.

THIS POLICY CONTAINS PROVISIONS WHICH LIMIT THE AMOUNT OF LEGAL EXPENSE THE COMPANY IS RESPONSIBLE TO PAY. LEGAL EXPENSE SHALL BE APPLIED AGAINST THE SELF-INSURED RETENTION AMOUNT STATED IN ITEM 4. OF THE DECLARATIONS AND IS SUBJECT TO THE LIMITS OF LIABILITY STATED IN ITEM 3. OF THE DECLARATIONS.

In consideration of the payment of the Policy Premium stated in Item 7. of the Declarations and in reliance upon the statements contained in the Application and any other supplemental materials and information submitted herewith, and subject to all the terms and conditions of this Policy, and the Limits of Liability, and Self-Insured Retention Amount stated in the Declarations, the Company agrees with the INSURED as follows:

I. INSURING AGREEMENT

A. Coverage A - POLLUTION LEGAL LIABILITY

The Company will pay on behalf of the INSURED for LOSS and related LEGAL EXPENSE resulting from any POLLUTION CONDITION on, at, under or migrating from any COVERED LOCATION, which the INSURED has or will become legally obligated to pay as a result of a CLAIM first made against the INSURED during the POLICY PERIOD and reported to the Company, in writing, by the INSURED, during the POLICY PERIOD or, where applicable, the EXTENDED REPORTING PERIOD.

B. Coverage B - REMEDIATION LEGAL LIABILITY

The Company will pay on behalf of the INSURED for REMEDIATION EXPENSE and related LEGAL EXPENSE resulting from any POLLUTION CONDITION on, at, under or migrating from any COVERED LOCATION:

1. for a CLAIM first made against the INSURED during the POLICY PERIOD which the INSURED has or will become legally obligated to pay; or

2. that is first discovered during the POLICY PERIOD,

provided that the INSURED reports such CLAIM or POLLUTION CONDITION to the Company, in writing, during the POLICY PERIOD or, where applicable, the EXTENDED REPORTING PERIOD.

C. Coverage C - CONTINGENT TRANSPORTATION COVERAGE

The Company will pay on behalf of the INSURED for LOSS, REMEDIATION EXPENSE and related LEGAL EXPENSE resulting from any POLLUTION CONDITION that arises solely during the course of TRANSPORTATION by any CARRIER, which the INSURED has or will become legally obligated to pay as a result of a CLAIM first made against the INSURED during the POLICY PERIOD and reported to the Company, in writing, by the INSURED, during the POLICY PERIOD or, where applicable, the EXTENDED REPORTING PERIOD.

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II. DEFINITIONS

A. **ADDITIONAL NAMED INSURED** means any person(s) or entity(ies) endorsed onto this Policy as an ADDITIONAL NAMED INSURED, but solely to the extent such person(s) or entity(ies) is liable as a result of the ownership, occupation, development, operation, maintenance, financing or use of any COVERED LOCATION.

B. **BODILY INJURY** means:

1. physical injury, sickness, disease or building related illness, including death resulting therefrom, and any accompanying medical or environmental monitoring; and/or

2. mental anguish, emotional distress, or shock,

caused by any POLLUTION CONDITION.

C. **CARRIER** means any person(s) or entity(ies), other than the INSURED or any subsidiary or affiliate company of the INSURED, engaged by or on behalf of the INSURED, licensed and in the business of transporting property for hire by land motor vehicle or watercraft.

D. **CLAIM** means any demand(s), notice(s) or assertion(s) of a legal right alleging liability or responsibility on the part of the INSURED and shall include but not be limited to lawsuit(s), petition(s), order(s) or government and/or regulatory action(s), filed against the INSURED.

E. **COVERED LOCATION** means any location(s) listed in the Covered Location Schedule endorsed onto this Policy.

F. **EXTENDED REPORTING PERIOD** means the Automatic Extended Reporting Period or, if applicable, the Optional Extended Reporting Period, as described in Section V. EXTENDED REPORTING PERIOD of this Policy.

G. **FIRST NAMED INSURED** means the person or entity stated in Item 1. of the Declarations.

H. **INSURED** means the FIRST NAMED INSURED, any ADDITIONAL NAMED INSURED endorsed onto this Policy, and any present or former director, officer, partner, employee, leased worker or temporary worker thereof while acting within the course and scope of his/her duties as such.

I. **LEGAL EXPENSE** means legal costs, charges and expenses incurred in the investigation, adjustment or defense of any CLAIM for LOSS or REMEDIATION EXPENSE, or in connection with the payment of any REMEDIATION EXPENSE as applicable, and shall include any necessary expert fees paid to experts retained by defense counsel.

LEGAL EXPENSE does not include the time and expense incurred by the INSURED in assisting in the investigation or resolution of a CLAIM or in connection with REMEDIATION EXPENSE, including but not limited to the costs of the INSURED'S in-house counsel, salary charges of regular employees or officials of the INSURED, and fees and expenses of supervisory counsel retained by the INSURED.

J. **LOSS** means monetary judgment, award or settlement of compensatory damages as well as related punitive, exemplary or multiplied damages where insurance coverage is allowable by law arising from:

1. BODILY INJURY; and/or

2. PROPERTY DAMAGE.

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K. **LOW-LEVEL RADIOACTIVE WASTE AND MATERIAL** means:

1. Waste as defined in Title 10 Code of Federal Regulations, Part 61.2; and/or

2. material regulated by the United States Nuclear Regulatory Commission or an Agreement State under a Type A, B or C Specific License of Broad Scope as defined in Title 10 Code of Federal Regulations, Part 33.11.

L. **MOLD MATTER** means mold, mildew or any type or form of fungus; including any mycotoxins, spores, or byproducts produced or released by fungi.

M. **MOLD MATTER REMEDIATION STANDARD** means standards for the investigation and abatement of MOLD MATTER imposed by a Federal, State, Local or Provincial governmental authority pursuant to a law or regulation governing the investigation and abatement of MOLD MATTER. If no standards have been imposed by such authority, then the standards for investigation and abatement shall be those necessary to protect human health at the COVERED LOCATION, as determined in consultation with a MOLD MATTER PROFESSIONAL, and shall be no less than those remediation activities recommended by the New York City Department of Health & Mental Hygiene Guidelines on Assessment and Remediation of Fungi in Indoor Environments ("NYC Guidelines"), or any subsequent amendments thereof. All of these standards shall take into consideration the use of the COVERED LOCATION on the date the COVERED LOCATION was endorsed onto this Policy.

N. **MOLD MATTER PROFESSIONAL** means a Certified Industrial Hygienist, or similarly qualified health and safety professional experienced in performing mold investigation and remediation, retained by or with the prior written consent of the Company.

O. **NATURAL RESOURCE DAMAGE** means physical injury to or destruction of, as well as the assessment of such injury or destruction, including the resulting loss of value of land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson-Stevens Fishery Conservation and Management Act 16 U.S.C. 1801 et. seq.), any State, Local or Provincial government, any foreign government, any Native American tribe or, if such resources are subject to a trust restriction on alienation, any member of a Native American tribe.

P. **POLICY PERIOD** means the period stated in Item 2. of the Declarations, or any shorter period arising as a result of cancellation.

Q. **POLLUTANTS** means any solid, liquid, gaseous or thermal pollutant, irritant or contaminant including but not limited to smoke, vapors, odors, soot, fumes, acids, alkalis, toxic chemicals, hazardous substances, waste materials, including medical, infectious and pathological wastes, electromagnetic fields, LOW-LEVEL RADIOACTIVE WASTE AND MATERIAL, and MOLD MATTER.

R. **POLLUTION CONDITION** means:

1. the discharge, dispersal, release, seepage, migration, or escape of POLLUTANTS into or upon land, or structures thereupon, the atmosphere, or any watercourse or body of water including groundwater;

2. the presence of any uncontrolled or uncontained POLLUTANTS into land, the atmosphere, or any watercourse or body of water including groundwater; or

3. the presence of MOLD MATTER on buildings or structures.

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S. **PROPERTY DAMAGE** means:

1. physical injury to or destruction of tangible property, including the resulting loss of use thereof, and including the personal property of third parties;

2. loss of use of such property that has not been physically injured or destroyed;

3. diminished third party property value; and/or

4. NATURAL RESOURCE DAMAGE,

caused by any POLLUTION CONDITION.

PROPERTY DAMAGE does not include REMEDIATION EXPENSE.

T. **REMEDIATION EXPENSE** means expenses caused by a POLLUTION CONDITION and incurred to investigate, assess, remove, dispose of, abate, contain, treat or neutralize a POLLUTION CONDITION, to the extent required by:

1. Federal, State, Local or Provincial Laws, Regulations or Statutes, or any subsequent amendments thereof, or MOLD MATTER REMEDIATION STANDARDS, enacted to address a POLLUTION CONDITION, including any individual or entity acting under the authority thereof; and/or

2. a legally executed state voluntary program governing the cleanup of a POLLUTION CONDITION.

REMEDIATION EXPENSE shall also include any associated (i) monitoring and testing costs, or (ii) punitive, exemplary or multiplied damages, where insurable by law. REMEDIATION EXPENSE shall also include RESTORATION COSTS.

U. **RESTORATION COSTS** means reasonable and necessary costs incurred by the INSURED to restore, repair or replace real or personal property to substantially the same condition it was in prior to being damaged during work performed in the course of incurring REMEDIATION EXPENSE.

However, these costs shall not exceed the actual cash value of such real or personal property immediately prior to incurring the REMEDIATION EXPENSE or include costs associated with improvements or betterments. Actual cash value is defined as the cost to replace such real or personal property, immediately prior to incurring the REMEDIATION EXPENSE, minus the accumulated depreciation of the real or personal property.

V. **RESPONSIBLE INSURED** means:

1. any officer, director, or partner of the INSURED;

2. any person(s) or entity(ies) authorized by the INSURED to act for or in place of the INSURED; and/or

3. any employee of the INSURED responsible for the environmental or health and safety affairs of the INSURED.

W. **TRANSPORTATION** means:

1. **Out-Bound** - the movement by a CARRIER of the INSURED'S product or waste generated by the INSURED, after a CARRIER crosses the legal boundary of a COVERED LOCATION until the INSURED'S waste or product is delivered or unloaded by the CARRIER; and/or

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2. **In-Bound** - the loading and movement by a CARRIER of material, from a location other than a COVERED LOCATION, until the CARRIER crosses the legal boundary of a COVERED LOCATION.

X. **UNDERGROUND STORAGE TANK(S)** means any stationary container or vessel, including the associated piping connected thereto, which is ten percent (10%) or more beneath the surface of the ground and is: (i) constructed primarily of non-earthen materials; and (ii) designed to contain any substance.

III. TERRITORY

A CLAIM must be made or brought in the United States, its territories or possessions or in Canada.

This Policy shall not apply to any risk which would be in violation of the laws of the United States or Canada, as applicable, including, but not limited to, United States economic or trade sanction laws or export control laws administered by the United States Treasury, State, and Commerce Departments (e.g. the economic and trade sanctions administered by the United States Treasury Office of Foreign Assets Control).

IV. EXCLUSIONS

This Policy does not apply to LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE or any other coverages afforded by endorsement attached to this Policy:

1. Non-Disclosed Conditions
arising from any POLLUTION CONDITION existing prior to the inception date of this Policy, and reported to or known by a RESPONSIBLE INSURED, which was not disclosed in writing to the Company in the Application or related materials prior to the inception date of this Policy or prior to the COVERED LOCATION being endorsed onto this Policy. Any POLLUTION CONDITION disclosed in writing to the Company and not otherwise excluded under this Policy is deemed to be first discovered on the date a COVERED LOCATION is endorsed onto this Policy.

2. Fines/Penalties/Assessments
based upon or arising out of any fines, penalties or assessments.

This exclusion does not apply to punitive, exemplary or multiplied damages.

3. Employer's Liability/Workers' Compensation
based upon or arising out of injury to:

a. any employee, director, officer, partner, leased worker or temporary worker of the INSURED if such injury occurs during and in the course of said employment, or during the performance of duties related to the conduct of the INSURED'S business, or arising out of any Workers' Compensation, unemployment compensation or disability benefits law or similar law; and

b. the spouse, child, parent, brother or sister of such employee, director, officer, partner, leased worker or temporary worker of the INSURED as a consequence of Item a. above.

4. Contractual Liability
based upon or arising as a result of liability of others assumed by the INSURED in any contract or agreement unless the liability would exist in the absence of a contract or agreement.

Only as it applies to coverages offered under this Policy, this exclusion does not apply to liability of others assumed by the INSURED in contracts listed in the Insured Contract(s) Schedule endorsed onto this Policy.

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5. Insured's Property/Bailee Liability
with respect to PROPERTY DAMAGE only, to property owned, leased or operated by, or in the care, custody or control of the INSURED, even if such PROPERTY DAMAGE is incurred to avoid or mitigate LOSS or REMEDIATION EXPENSE which may be covered under this Policy.

This exclusion does not apply to RESTORATION COSTS or NATURAL RESOURCE DAMAGE.

6. New Pollution Conditions at Divested Property
based upon or arising from any POLLUTION CONDITION on, at, under or migrating from any COVERED LOCATION, where the actual discharge, dispersal, release, seepage, migration or escape of POLLUTANTS commenced subsequent to the time such COVERED LOCATION was sold, given away, or abandoned by the INSURED, or condemned.

7. Radioactive / Nuclear Material
based upon or arising out of:

a. ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the processing or reaction of nuclear fuel;

b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

c. the existence, required removal or abatement of Naturally Occurring Radioactive Material, including but not limited to radon;

d. high-level radioactive waste (spent nuclear fuel or the highly radioactive waste produced if spent fuel is reprocessed), uranium milling residues and waste with greater than specified quantities of elements heavier than uranium; or

e. mixed Waste as defined in Title 40 Code of Federal Regulations, Part 266.210; however, this clause e. does not apply to Mixed Waste that contains Waste as defined in Title 10 Code of Federal Regulations, Part 61.2,

including, but not limited to the actual, alleged or threatened exposure of any person(s) or property to any such matter.

8. Products Liability
based upon or arising out of goods or products manufactured, sold, handled, distributed, altered or repaired by the INSURED or by others trading under the INSURED's name including any container thereof, any failure to warn, or any reliance upon a representation or warranty made at any time with respect thereto, but only if the POLLUTION CONDITION took place away from a COVERED LOCATION and after physical possession of such goods or products has been relinquished to others.

This exclusion does not apply to Coverage C – CONTINGENT TRANSPORTATION COVERAGE, as stated in Section I. INSURING AGREEMENT of this Policy.

9. Non-Compliance
arising from any POLLUTION CONDITION that results from the intentional disregard of, or the deliberate, willful or dishonest non-compliance by a RESPONSIBLE INSURED with any statute, regulation, ordinance, order, notice letter or instruction from, by or on behalf of any governmental body or entity.

10. Hostile Acts
based upon or arising out of any consequence, whether direct or indirect, of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.

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11. Lead-Based Paint and Asbestos
based upon or arising out of the existence, required removal or abatement of lead-based paint or asbestos, in any form, in any building or structure, including but not limited to products containing asbestos, asbestos fibers, asbestos dust, and asbestos containing materials.

12. Underground Storage Tank(s)
based upon or arising out of the existence of any UNDERGROUND STORAGE TANK(S) on, at or under a COVERED LOCATION. This exclusion does not apply to UNDERGROUND STORAGE TANK(S):

a. which are closed, abandoned-in-place or removed prior to the inception date of this Policy, in accordance with all applicable Federal, State, Local or Provincial Regulations in effect at the time of closure, abandonment or removal;

b. listed in the Underground Storage Tank(s) Schedule endorsed onto this Policy, if any;

c. the existence of which is unknown by a RESPONSIBLE INSURED as of the inception date of this Policy;

d. flow-through process tanks, including oil/water separators; or

e. storage tank(s) situated in an underground area (such as a basement, cellar, mine shaft or tunnel) if the storage tank is situated upon or above the surface of the floor.

13. Insured vs. Insured
based upon or arising from a CLAIM by one INSURED against another INSURED.

14. Material Change in Use or Operations
based upon or arising out of a material change in the use of, or a material change in the operations at, any COVERED LOCATION from those set forth by the INSURED in the Application or related materials as of the inception date of this Policy.

15. Retroactive Date
based upon or arising out of any POLLUTION CONDITION that commenced prior to the Retroactive Date stated in Item 5. of the Declarations which includes any dispersal, migration or further movement of the aforementioned POLLUTION CONDITION on or after the Retroactive Date stated in Item 5. of the Declarations.

16. Reverse Retroactive Date
based upon or arising out of any POLLUTION CONDITION that commenced subsequent to the Reverse Retroactive Date stated in Item 6. of the Declarations.

17. Communicable Diseases
based upon or arising out of the exposure to infected individuals or animals, or contact with bodily fluids of infected individuals or animals.

V. EXTENDED REPORTING PERIOD

A. Automatic Extended Reporting Period:

The INSURED shall be entitled to a ninety (90) day Automatic Extended Reporting Period for no additional premium, commencing on the last day of the POLICY PERIOD, subject to the following terms and conditions:

1. The Automatic Extended Reporting Period shall apply to a CLAIM first made against the INSURED during the POLICY PERIOD and reported to the Company, in writing, by the INSURED during the Automatic Extended Reporting Period and otherwise covered by this Policy.

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2. The Automatic Extended Reporting Period shall also apply to a CLAIM first made against the INSURED during the Automatic Extended Reporting Period, resulting from any POLLUTION CONDITION first discovered and reported to the Company, in writing, by the INSURED during the POLICY PERIOD and otherwise covered by this Policy. In this case, the CLAIM shall be deemed to have been made against the INSURED on the last day of the POLICY PERIOD.

3. The Automatic Extended Reporting Period shall also apply to any POLLUTION CONDITION first discovered by the INSURED during the POLICY PERIOD and reported to the Company, in writing, by the INSURED within the Automatic Extended Reporting Period and otherwise covered under this Policy.

The ninety (90) day Automatic Extended Reporting Period does not apply where:

1. this Policy is terminated for fraud, misrepresentation or non-payment of premium as described in Section IX. CONDITIONS, B. Cancellation, Items 2.a. and 2.b.; or

2. the INSURED has purchased other insurance to replace this Policy, which provides coverage for a CLAIM and/or POLLUTION CONDITION.

B. Optional Extended Reporting Period:

The FIRST NAMED INSURED shall be entitled to purchase an Optional Extended Reporting Period in the event this Policy is non-renewed, subject to the following terms and conditions:

1. The Optional Extended Reporting Period shall become effective upon payment of an additional premium of not more than one hundred percent (100%) of the full Policy Premium. The Optional Extended Reporting Period shall be effective for three (3) consecutive three-hundred and sixty-five (365) day periods commencing on the last day of the POLICY PERIOD. The FIRST NAMED INSURED must indicate its intention, in writing, to purchase this Optional Extended Reporting Period within thirty (30) days from the last day of the POLICY PERIOD. The Automatic Extended Reporting Period of ninety (90) days will be merged into this period and is not in addition to this period.

2. The Optional Extended Reporting Period shall only apply to a CLAIM first made against the INSURED during the Optional Extended Reporting Period, resulting from any POLLUTION CONDITION first discovered and reported to the Company, in writing, by the INSURED, during the POLICY PERIOD and otherwise covered by this Policy.

The Optional Extended Reporting Period does not apply where:

1. this Policy is terminated for fraud, misrepresentation or non-payment of premium as described in Section IX. CONDITIONS, B. Cancellation, Items 2.a. and 2.b.; or

2. the INSURED has purchased other insurance to replace this Policy, which provides coverage for a CLAIM and/or POLLUTION CONDITION.

It is a condition precedent to the operation of the rights granted under Item B. above that payment of the appropriate premium shall be made not later than thirty (30) days after expiration of this Policy in the case of non-renewal.

For purposes of Item B. Optional Extended Reporting Period as referenced above, the quotation of different terms and conditions by the Company shall not be construed as a non-renewal of this Policy.

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VI. LIMITS OF LIABILITY AND SELF-INSURED RETENTION

A. The Company will pay one hundred percent (100%) of all covered LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE and any other coverages afforded by endorsement attached to this Policy in excess of the applicable Self-Insured Retention Amount stated in Item 4. of the Declarations and subject to the Limits of Liability stated in Item 3. of the Declarations and the other terms and conditions of this Policy.

B. The Self-Insured Retention Amount is borne by the INSURED and is not to be insured unless the Company has expressed its prior consent in writing to the FIRST NAMED INSURED. The applicable Self-Insured Retention Amount stated Item 4. of the Declarations shall apply.

C. All LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE and any other coverages afforded by endorsement attached to this Policy arising out of the same or related POLLUTION CONDITION at any one COVERED LOCATION shall be considered a single POLLUTION CONDITION and shall be subject to the applicable Limits of Liability stated in Item 3a. of the Declarations and the Self-Insured Retention Amount stated in Item 4. of the Declarations.

D. All LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE or any other coverages afforded by endorsement attached to this Policy during the POLICY PERIOD or, where applicable, the EXTENDED REPORTING PERIOD shall not exceed the Limits of Liability stated in Item 3b. of the Declarations.

E. Any LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE and any other coverages afforded by endorsement incurred and reported to the Company, in writing, over more than one policy period, and resulting from the same or related POLLUTION CONDITION, shall be considered a single POLLUTION CONDITION. The LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE and any other coverages afforded by endorsement attached to this Policy will be subject to the same Limits of Liability and the Self-Insured Retention Amount in effect at the time the POLLUTION CONDITION was first reported to the Company, in writing, by the INSURED, during the POLICY PERIOD or, where applicable, the EXTENDED REPORTING PERIOD.

VII. REPORTING, DEFENSE, SETTLEMENT AND COOPERATION

A. As a condition precedent to the coverage hereunder, in the event any CLAIM is made against the INSURED for LOSS or REMEDIATION EXPENSE, or any POLLUTION CONDITION is first discovered by the INSURED that results in a LOSS or REMEDIATION EXPENSE:

1. The INSURED shall forward to the Company or to any of its authorized agents every demand, notice, summons, order or other process received by the INSURED or the INSURED's representative as soon as practicable; and

2. The INSURED shall provide to the Company, whether orally or in writing, notice of the particulars with respect to the time, place and circumstances thereof, along with the names and addresses of the injured and of available witnesses. In the event of oral notice, the INSURED agrees to furnish to the Company a written report as soon as practicable.

It is further agreed, that the INSURED shall cooperate with the Company and upon the Company's request shall submit to examination by a representative of the Company, under oath if required, and shall attend hearings, depositions and trials and shall assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits, as well as in the investigation and/or defense thereof, all without charge to the Company. The INSURED shall further cooperate with the Company and do whatever is necessary to secure and effect any rights of indemnity, contribution or apportionment which the INSURED may have.

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B. No costs, charges or expenses shall be incurred, nor payments made, obligations assumed or remediation commenced without the Company's written consent which shall not be unreasonably withheld. This provision does not apply to costs incurred by the INSURED on an emergency basis, where any delay on the part of the INSURED would cause injury to persons or damage to property, or increase significantly the cost of responding to any POLLUTION CONDITION. If such emergency occurs, the INSURED shall notify the Company immediately thereafter.

C. The Company shall have the right and the duty to defend an INSURED against any CLAIM seeking damages for a LOSS or for REMEDIATION EXPENSE. The Company will have no duty to defend the INSURED against any CLAIM for LOSS or for REMEDIATION EXPENSE to which this Policy does not apply.

D. The Company shall have the right and the duty to assume the investigation, adjustment or defense of any CLAIM. In case of the exercise of this right, the INSURED, on demand of the Company, shall promptly reimburse the Company for any element of LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE or any other coverages afforded by endorsement falling within the Self-Insured Retention Amount stated in Item 4. of the Declarations.

The INSURED shall not admit liability or settle any CLAIM without the Company's consent. If the Company recommends a settlement of any CLAIM:

1. for an amount within the Self-Insured Retention Amount and the INSURED refuses such settlement, the Company shall not be liable for any LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE and any other coverages afforded by endorsement in excess of the Self-Insured Retention Amount; or

2. for a total amount in excess of the Self-Insured Retention Amount and the INSURED refuses such settlement, the Company's liability for LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE and any other coverages afforded by endorsement shall be limited to that portion of the recommended settlement and the costs, charges and expenses as of the date of the INSURED's refusal which exceed the Self-Insured Retention Amount but fall within the Limits of Liability.

E. If a POLLUTION CONDITION is first discovered by the INSURED during the POLICY PERIOD and reported in writing to the Company during the POLICY PERIOD or, where applicable, the EXTENDED REPORTING PERIOD, and a CLAIM associated with such POLLUTION CONDITION is made against the INSURED and reported to the Company after the expiration of this Policy, such CLAIM shall be deemed to have been first made and reported on the last day of the POLICY PERIOD in which the POLLUTION CONDITION is first discovered, provided that the INSURED has maintained an equivalent policy with the Company on a continuous uninterrupted basis and the CLAIM is made against the INSURED and reported to the Company prior to the cancellation or expiration of such subsequent policy. It is further agreed that coverage for such CLAIM will not be provided under any subsequent policy issued by the Company.

F. The Company shall have the right to designate legal counsel for the investigation, adjustment and defense of a CLAIM. The Company shall consult with the INSURED in conjunction with the selection of counsel.

VIII. TRANSFER OF LEGAL DEFENSE DUTIES

A. If the Company believes that the Limits of Liability stated in Item 3. of the Declarations has been or soon will be exhausted in defending a CLAIM or that the Company has paid out or will soon pay out the Aggregate Liability stated in Item 3.b. of the Declarations, the Company will so notify the FIRST NAMED INSURED in writing as soon as possible. The Company will advise that its duty to defend a CLAIM seeking damages within those Limits of Liability has terminated, subject to payment of the Limits of Liability, and that it will have no duty to defend or indemnify the INSURED for any CLAIM for which notice is given after the date it sends out such notice. The Company will take immediate and appropriate steps to transfer control of any existing defense prior to exhaustion of the limits to the FIRST NAMED INSURED. The FIRST NAMED INSURED agrees to reimburse the Company for any costs which the Company bears in connection with the transfer of the defense.

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B. The Company will take appropriate steps necessary to defend the CLAIM during the transfer of the defense and avoid any unfavorable legal action provided that the FIRST NAMED INSURED cooperates in the transfer of the duties of the defense.

C. The exhaustion of the applicable Limits of Liability by the payment of LOSS, REMEDIATION EXPENSE, LEGAL EXPENSE and any other coverages afforded by endorsement will not be affected by the Company's failure to comply with any of the provisions of this section.

IX. CONDITIONS

A. **Inspection and Audit --** The Company shall be permitted but not obligated to inspect and monitor on a continuing basis the INSURED'S property or operations at any COVERED LOCATION, at any time. Neither the Company's right to make inspections and monitor nor the actual undertaking thereof nor any report thereon shall constitute an undertaking, on behalf of the INSURED or others, to determine or warrant that property or operations are safe, healthful or conform to acceptable engineering practice or are in compliance with any law, rule or regulation. Access for the inspection and audit may be coordinated through the broker or agent of the FIRST NAMED INSURED.

B. **Cancellation --** The INSURED and the Company agree to the following with regard to cancellation:

1. **Cancellation by the FIRST NAMED INSURED --** This Policy may be canceled by the FIRST NAMED INSURED by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter the cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice of cancellation. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the POLICY PERIOD. Confirmed delivery of such written notice by the FIRST NAMED INSURED shall be equivalent to mailing.

   The Minimum Earned Premium for this Policy will be the percentage stated in Item 8. of the Declarations of the total premium for this Policy. The FIRST NAMED INSURED is not entitled to any return of the Minimum Earned Premium upon cancellation by the FIRST NAMED INSURED.

   If the Minimum Earned Premium is less than one hundred percent (100%), and the FIRST NAMED INSURED cancels this Policy, then the amount of premium returnable after the minimum premium earned is retained by the Company shall be computed in accordance with the customary short rate table and procedure.

2. **Cancellation by the Company --** This Policy may be canceled by the Company by mailing to the FIRST NAMED INSURED at the address shown in Item 1. of the Declarations, written notice stating when not less than sixty (60) days [ten (10) days for non-payment of premium] thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice of cancellation. The effective date and hour of cancellation stated in the notice shall become the end of the POLICY PERIOD.

   The Company may cancel this Policy at any time, but only for the following reasons:

   a. the INSURED has made a material misrepresentation which affects the Company's assessment of the risk of insuring any COVERED LOCATION; or

   b. the INSURED breaches or fails to comply with Policy terms, conditions, contractual duties, or any of its obligations under this Policy or at law; or

   c. the INSURED fails to pay the premium or fails to pay any Deductible or the Self-Insured Retention Amount for this Policy.

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If the Company cancels this Policy, then the amount of premium returnable to the INSURED shall be computed pro rata and no minimum earned premium shall apply.

In the event of cancellation of this Policy by the Company from Item b. above, the INSURED shall have sixty (60) days from the date of notice to remedy such breach or failure to comply that is the cause for cancellation. If such remedy is satisfactory to the Company, in its sole discretion, during the applicable notice period, the Company will rescind the Notice of Cancellation with a written confirmation to the FIRST NAMED INSURED that the Policy shall remain in place.

With regard to both Items 1. and 2. above:

1. The premium adjustment may be made either at the time cancellation is affected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation; and

2. If a CLAIM is made against the INSURED, and the POLLUTION CONDITION related to such CLAIM is discovered or coverage is requested from the Company by the INSURED during the POLICY PERIOD or, where applicable, the EXTENDED REPORTING PERIOD, then the total premium shall be considered one hundred percent (100%) earned, and the INSURED is not entitled to any return of premium upon cancellation.

C. Declarations and Representations -- By acceptance of this Policy, the INSURED agrees that the statements contained in the Application and any other supplemental materials and information submitted herewith are the INSURED's agreements and representations, that they shall be deemed material, that this Policy is issued in reliance upon the truth of such representations and that this Policy embodies all agreements existing between the INSURED and the Company or any of its agents relating to this insurance.

D. Action Against Company -- No action shall lie against the Company unless, as a condition precedent thereto:

1. the INSURED has fully complied with all of the terms of this Policy; and

2. the amount the INSURED is obligated to pay has been finally determined either by judgment against the INSURED after actual trial or by written agreement of the INSURED, the claimant and the Company.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent of the insurance afforded by this Policy. No person or organization shall have any right under this Policy to join the Company as a party to any action against the INSURED to determine the INSURED's liability, nor shall the Company be impleaded by the INSURED or its legal representative. Bankruptcy or insolvency of the INSURED or of the INSURED's estate shall not relieve the Company of any of its obligations hereunder.

E. Assignment -- This Policy shall be void as to the assignee or transferee, if assigned or transferred without written consent of the Company. Such consent shall not be unreasonably withheld or delayed by the Company.

F. Subrogation -- In the event of any payment under this Policy, the Company shall be subrogated to all the INSURED'S rights of recovery against any person or organization and the INSURED shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The INSURED shall do nothing to prejudice such rights.

G. Changes -- Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or estop the Company from asserting any right under the terms of this Policy; nor shall the terms of this Policy be waived or changed, except by endorsement issued to form a part of this Policy.

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H. **Sole Agent --** The FIRST NAMED INSURED stated in Item 1. of the Declarations shall act on behalf of all INSUREDS for the payment or return of premium, receipt and acceptance of any endorsement issued to form a part of this Policy, giving and receiving notice of cancellation or non-renewal and the exercise of the rights provided in Section V. EXTENDED REPORTING PERIOD, Item B. Optional Extended Reporting Period.

I. **Other Insurance** -- Subject to Section VI. LIMITS OF LIABILITY AND SELF-INSURED RETENTION, this insurance shall be in excess of the Self-Insured Retention Amount stated in Item 4. of the Declarations and any other valid and collectible insurance available to the INSURED, whether such other insurance is stated to be primary, pro rata, contributory, excess, contingent or otherwise, unless such other insurance is written only as specific excess insurance over the Limits of Liability provided in this Policy.

J. **Headings --** The descriptions in the headings of this Policy are solely for convenience and form no part of this Policy terms and conditions.

K. **Jurisdiction and Venue --** It is agreed that in the event of the failure of the Company to pay any amount claimed to be due hereunder, the Company and the INSURED will submit to the jurisdiction of the State of New York and will comply with all the requirements necessary to give such court jurisdiction. Nothing in this clause constitutes or should be understood to constitute a waiver of the Company's right to remove an action to a United States District Court.

L. **Choice of Law --** All matters arising hereunder including questions related to the validity interpretation, performance and enforcement of this Policy shall be determined in accordance with the law and practice of the State of New York (notwithstanding New York's conflicts of law rules).

M. **Severability --** Except with respect to Limits of Liability and any rights and duties assigned in this Policy to the FIRST NAMED INSURED, this insurance applies as if each INSURED were the only INSURED and separately to each INSURED against whom a CLAIM is made.

Any misrepresentation, act or omission that is in violation of a term, duty or condition under this Policy by one INSURED shall not by itself affect coverage for another INSURED under this Policy. However, this condition shall not apply to the INSURED who is a parent, subsidiary or affiliate of the INSURED which committed the misrepresentation, act or omission referenced above.

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